



SUBJECT: Consideration of Approval of the request of Robert B. Aikens & Associates, LLC and Robertson Brothers Homes, for Sakura Novi, JZ19-31, with zoning map amendment 18.732, to rezone property from Office Service (OS-1), Office Service Commercial (OSC) and Light Industrial (I-1) to Town Center-1 (TC-1) subject to a Planned Rezoning Overlay (PRO) Agreement, on land located north of Grand River Avenue, south of Eleven Mile Road in Section 23, together with approval of the PRO Plan and PRO Agreement. The applicant is proposing to develop a mixed use development with retail, restaurant, and office uses and up to 132 multi-family residential units on approximately 15 acres of land.

SUBMITTING DEPARTMENT: City Manager/Department of Community Development

BACKGROUND INFORMATION:

The petitioner is requesting a Zoning Map amendment for approximately 16 acres of property located north of Grand River Avenue, south of Eleven Mile Road, and east of Town Center Drive, from Office Service (OS-1), Office Service Commercial (OSC), and Light Industrial (I-1) to Town Center-1 (TC-1) using the City's Planned Rezoning Overlay (PRO) option. The PRO option "provide(s) an election to property owners in connection with the submission of petitions seeking the amendment of [the zoning] ordinance for approval of a rezoning ...that would establish a site specific use authorization...so as to accomplish, among other things, the objectives of the zoning ordinance through a land development project review process based upon the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area."

The applicant is proposing to develop the property as a mixed-use development with access points off of Grand River Avenue and Eleven Mile Road. The commercial portion of the project would consist of four buildings containing retail, restaurant, and possible office spaces. Multi-family residential rental units (118) in 20 townhome buildings would be located on the northern portion of the site with access to Eleven Mile Road. The existing pond on the west side of the site would serve as a focal point and public gathering space, to be enhanced with Japanese gardens and a walkway around the perimeter.

An alternative Phase 2 area (shown as primarily commercial parking on the PRO Plan) could be developed with up to 15 townhome units (2 buildings) matching the form and style of those proposed for Phase 1B & 1C. If that option is pursued, these buildings would be built to the east of commercial Building A. One unit from residential building 20 in Phase 1C would likely be removed to construct the access drive, resulting in an overall total of 132 multi-family units if Phase 2 is constructed. A determination whether to pursue the Phase 2 alternative will be made

once the developer has a greater understanding of the parking needs for the future tenants of the commercial buildings.

Since the Council granted tentative approval of the rezoning request, the applicant has made a few changes to the Concept Plan as follows, which are also reflected in the PRO Agreement:

1. The tenant that had been proposed as the anchor or centerpiece of the commercial development, One World Market, has decided to remain at its current location. Therefore, adjustments have been made to Buildings A & D to adapt to a new proposed mix of uses and a redesign of the buildings. While there is still the possibility of a specialty market as a tenant of the building(s) in that area, there is no specialty market use being proposed at this time. There are also no specified retail or restaurant uses currently identified.
2. Changes have been made to the phasing plan for the project.
3. One of the asserted benefits to the public as part of the development – the community room that was to be located in the market – has been withdrawn.
4. There have been minor modifications to the deviations requested. Two new deviations were required and another was removed because the City amended the Landscaping ordinance in 2020.
5. Another significant change is the order of construction of the commercial buildings. The initial submission contemplated construction of a roughly 25,000 square foot specialty market first. The Applicant now proposes to build the roughly 13,000 square foot retail strip building along Grand River first, with the remaining buildings to be constructed as the applicant determines on the basis of market demand. While that is the expressed intent, ***there is no commitment in the PRO Agreement to complete the 13,000 square foot retail strip building, or construct any of the remaining commercial buildings, by any specific period of time—nor, for that matter, in any particular order.***

Ordinance Deviations Requested

Section 7.13.2.D.i.c(2) permits deviations from the strict interpretation of the Zoning Ordinance within a PRO agreement. ***These deviations must be accompanied by a finding by City Council that “each Zoning Ordinance provision sought to be deviated would, if the deviation were not granted, prohibit an enhancement of the development that would be in the public interest, and that approving the deviation would be consistent with the Master Plan and compatible with the surrounding areas.”*** Such deviations must be considered by City Council, who will make a finding of whether to include those deviations in a proposed PRO agreement. The proposed PRO agreement would be considered by City Council after tentative approval of the proposed concept plan and rezoning.

The Concept Plan submitted with an application for a rezoning with a PRO is not required to contain the same level of detail as a preliminary site plan. Staff has reviewed the Concept Plan in as much detail as possible to determine what deviations from the Zoning Ordinance are currently shown. The applicant has chosen to proceed with the plan as submitted with the understanding that those deviations would have to be approved by City Council in a proposed PRO Agreement.

The deviations requested are the following:

- a. Deviation from Section 3.27.1.C to allow an exterior side yard setback of 10 feet (50 feet required) for Buildings A & D, where adjacent to B-3 zoning to the east.

- b. Deviation from Section 3.27.1.C to allow building and parking setbacks to be reduced up to 0 feet when adjacent to general common element boundary areas within a condominium.
- c. Deviation from Section 4.82.2.e. to allow second floor residential balconies to encroach 4 feet into the front yard setback (11 feet instead of 15 feet required) along Eleven Mile Road.
- d. Deviation from Section 3.1.26 to allow a reduction of the side yard parking setback (5 feet instead of 10 feet required) in Phase 1 on the western property line with the Town Center green space area adjacent. This deviation also allows the parking setback to be reduced to 5 feet (10 feet required) for the parking area south of Building 21 (Phase 2 residential option) adjacent to the B-3 zoned parcel.
- e. Deviation from Section 3.6.2.M to eliminate the wetland setback (25 feet required) around the pond feature. This deviation also pertains to the far eastern portion of site, abutting the City-owned retention/wetland basin.
- f. Deviation from Section 3.1.26.D to allow the existing front yard parking lot along 11 Mile Road for ECCO Tool shop (approximately 15 feet measured from ROW, instead of 20 feet required). This deviation would not apply to any future redevelopment of the ECCO Tool parcel.
- g. Deviation from Section 3.1.26.D to allow the parking area in front of Building 12 on the northeast corner of the site to extend into the front parking setback (6 feet instead of 20 feet required).
- h. On the commercial buildings, Section 9 façade waivers to allow an overage of flat metal panels on the west and east facades of Building B; and an overage of EIFS on the west façade of Building C.
- i. On the residential buildings, a Section 9 façade waiver to allow an overage of cement fiber siding (up to 39% on front elevations, 58% on side elevations, 48% on rear elevations). On the rear elevation, a deficiency in the minimum of brick on the rear elevation (15.5% instead of 30% required) as shown on the residential building elevations.
- j. Deviation from Section 3.27.1.H. and/or Section 5.4 to permit loading/unloading spaces of the commercial buildings to be located in rear and side yards, and for deficiencies in the size of loading area required, as shown on the PRO Plan, if truck turning movements are shown on the plans to demonstrate accessibility.
- k. Deviation from Section 3.27.2.B to allow the proposed Buildings A & D (PRO Office, Restaurant and Retail mix) to exceed 7,500 square feet of gross leasable floor area, with a total of approximately 29,000 square feet on one level, as identified on the plans.
- l. Deviation from Section 3.27.2.B to allow Building C (13,102 square feet) to exceed 7,500 square feet, as it is not a multi-story building.
- m. Deviation from Section 5.7.3.K for site illumination level variance for multiple walkway areas and residential parking areas. Site walkway areas will vary below 0.2 foot candle minimum standard on the pathway around the water feature. Site walkway areas in the residential portion will vary below 0.2 foot candle minimum standard. Parking area in residential area will fall below 0.2 foot candle minimum standard in some locations.

- n. Deviation from Section 3.27.1.L to allow project-appropriate selection of exterior lighting fixtures, paved activity nodes, street/sidewalk furniture, safety paths, screening walls and planters.
- o. Deviation from Chapter 28 of the City Code for TC-1 tenant signage standards. Tenants may have both interior-facing and frontage-facing signage. The development will adhere to the requirements of the City Code, subject to the follow deviations:
 - i. Under Section 28-5.c.1.a, deviation to allow up to 2.5 square feet of signage per linear foot of contiguous public or private street frontage, up to a maximum of 130 square feet.
 - ii. Under Section 28-5.c.1.b, deviation to allow 2.5 square feet of signage per linear foot of contiguous public or private street frontage on a rear/secondary façade with a pedestrian entrance, up to a maximum of 130 square feet.
 - iii. Under Section 28-5.c.1.d, a deviation to allow 2 signs of equal permitted size for each interior retail/restaurant tenant not fronting public streets. Sign area allowed up to 2.5 square feet of signage per linear foot of elevation frontage, up to a maximum of 130 square feet. The signs shall be located no closer than 30 feet on center from any other similar sign (except those of the same message but different languages, which may be located closer), and shall be located adjacent to such parking lot or street, as applicable.
- p. Deviation from Section 5.3.2 to allow drive lane reduction to 20-22 feet in residential Phase 1C area as shown on the PRO Plan, provided no parking signage is posted in these areas and provided sufficient clearance is available for emergency vehicle movements.
- q. Deviation from Section 3.27.1.I to allow a 6-foot sidewalk along 11 Mile Road, instead of the 12.5-foot sidewalks required by the TC-1 District along non-residential collector and local streets.
- r. Deviation from Section 5.5.3.A to allow a continuous 6-foot evergreen hedge with densely planted deciduous canopy trees in lieu of the required 6-8 foot berm required when TC-1 district abuts a B-3 district.
- s. Deviation to allow ECCO Tool to continue to operate as a nonconforming use in the TC-1 district until their operations cease (subject to Paragraph J.iii.i above).
- t. Deviation from Engineering Design Manual Section 5.6.5 (b)(a) for lack of 25-foot vegetated buffer around the storm water management pond in the residential use area.
- u. Deviation from Section 5.5.3.B.ii and iii. for lack of screening wall or berm for parking areas along Grand River, as fencing and landscaping will be provided as alternative screening.
- v. Deviation from Section 5.5.3.B.ii and iii. for insufficient greenbelt width and berm between parking lot and 11 Mile Road (Phase 1C), as a retaining wall will provide alternative screening.
- w. Deviation from Section 5.5.3.F.iii.b.3 for a deficiency in foundation plantings along the building perimeter facing the interior drives of multifamily residential buildings.
- x. Deviation from Section 5.5.3.A.ii Footnote 1 for not providing a 6-foot wall when non-

residential uses in the TC-1 District about a residential use. Alternative screening shall be provided between residential and non-residential uses on the site.

- y. Deviation from Section 5.5.3.C for deficiency of 3 parking lot perimeter trees provided in Phase 1.
- z. Deviation from Section 4.19 of the Zoning Ordinance to allow transformers to be located as shown in the PRO Plan, in the rear or side yard next to the loading zones of the buildings, in the commercial portion of the project.
- aa. Deviation from Section 12-176 of the Code of Ordinances to allow mitigation of wetland impacts in whole or in part through the purchase of credits in an EGLE-approved wetland mitigation bank. This deviation is unique to this parcel and its location within the City and is further subject to the following requirements:
 - i. Mitigation credits shall be purchased within an EGLE-approved wetland mitigation bank in the Ann Arbor Moraines ecoregion (Sub-section VI.1.2).
 - ii. The City's required 2.41 acres of wetland mitigation shall be purchased within a single wetland mitigation bank.
 - iii. All documentation of such purchase shall be provided to the City in order to demonstrate that the conditions of the City of Novi's wetlands permit have been fulfilled. Such documentation shall be reviewed and approved by the City's legal consultant.
 - iv. Documentation from EGLE authorizing the proposed wetland impacts, as well as approval of the proposed wetland mitigation scenario, shall be received before issuance of a City of Novi wetlands permit.

Public Benefit under PRO Ordinance

Section 7.13.2.D.ii states that the *City Council must determine that the proposed PRO rezoning would be in the public interest and the public benefits of the proposed PRO rezoning would clearly outweigh the detriments*. The list of benefits as stated by the applicant are:

1. Developer offers to dedicate continuous Right-of-Way (ROW), and future ROW, along 11 Mile and Grand River. The total dedication would be 0.342 acre.
2. Developer offers an easement at the southeast corner of the proposed development for the City to use for public art or other amenity.
3. The development will create a park-like environment around the existing pond, including a walking path around the pond and throughout the site, available to the general public. Landscaping treatments, the pathway, and a small building at the edge of the pond will "activate" the pond.
4. Contribution to the Sidewalk Fund in an amount of approximately \$117,000 for the purpose of funding missing sidewalk connections in the vicinity of Sakura Novi.

5. Funding for completion of the sidewalk segment along Grand River Avenue from the property line to the Town Center Drive intersection.
6. Construction of a multi-use, multi-generational recreational amenity and platform (approximately 1,800 square feet) to be located northwest of the pond (See inspiration images in applicant response materials).
7. Construction of a meditative Observation-Plaza east of the Phase 1C residential area, overlooking the eastern detention basin (approximately 700 square feet).
8. Partnership with the Novi Public Library to provide a “Free Little Library” type facility within the development with a collection to include Japanese language material and cook-books featuring Asian cuisine (or some other “mutually agreeable” educational benefit).

The proposed benefits should be weighed against the proposal to determine if they “clearly outweigh” any detriments of the proposed rezoning. It should be noted that while it is not required, the dedication of right-of-way is typical of developments.

PRO Conditions

The applicant is required to submit a conceptual plan and a list of terms that they are willing to include with the PRO agreement. *The PRO Conditions are intended to be “site-specific regulations (to be set forth on a PRO Plan and in a PRO Agreement to be prepared) which are, in material respects, more strict or limiting than the regulations that would apply to the land under the proposed new zoning district.”* The applicant has submitted a conceptual plan showing the general layout of the site, the location of the proposed detention pond, and location of the proposed pathways. The proposed terms and conditions are listed in the proposed Recommended Action below.

Previous City Council Consideration

The City Council granted the original tentative approval of the request at the March 2, 2020 meeting, and directed the City Attorney’s Office to prepare a PRO Agreement. On January 11, 2021, the City Council granted a revised tentative approval of a revised Concept Plan, which included 14 additional residential units. Those units are now included as an alternative Phase 2 of the project.

City Council Action

The City Council is now asked to consider the actual text of the PRO Agreement and give final approval of the agreement, the PRO Plan, and the rezoning. Following Council’s final approval, the applicant will submit for Preliminary and Final Site Plan approval under standard site plan review procedures.

Status of Other Aspects of the Project

As a reminder to Council, approval of a PRO (including the PRO Plan and PRO Agreement) for this project is not the end of what needs to happen in order for this development to move forward. Under the Conditional Agreement for Purchase and Sale between the City and Sakura Novi, LLC, dated June 21, 2018, as amended, Purchaser is also expected to secure:

- (a) approval of a Brownfield Redevelopment Plan and Act 381 Plan; and
- (b) approval of a Commercial Rehabilitation District (CRD) and related exemption certificate.

Neither of these items has progressed in the normal course with the PRO process. The Brownfield plans have not received necessary hearings at the County. The public hearing on the creation of the CRD district is occurring at the same meeting as this PRO is being considered by Council. At this point, however, the City has very little information as to either of these items—specifically, very limited indication as to the cost of plan and the exemption to the local governments providing the reimbursements or foregoing the tax revenues at issue. Because the Brownfield matters have not proceeded at the County, there has similarly been no action taken to address the Corridor Improvement Authority (CIA) at the County, either (the CIA will need to subordinate its TIF capture for the Brownfield).

There are also some timing items with respect to the Conditional Agreement that Council should be aware of:

- The Sixth Amendment to the Conditional Agreement (the most recent one) states that if the PRO is not approved by May 25, 2021, then either party can terminate the Conditional Agreement, and the purchaser will get its deposit back. That date is the reason why this item is on Council’s agenda now, even with other items still lagging behind.
- The Sixth Amendment also extends the “Closing” date for the sale by way of the following definition:

The date being the earlier of seven (7) months following the Sixth Amendment Effective Date or thirty (30) days following the satisfaction of the conditions established in Paragraphs 6 and 7 of the Agreement. In the event all Conditions to Closing as set forth in Paragraph 6 are not satisfied or waived, in Purchaser’s sole and absolute discretion, and the Development Conditions in Paragraph 7 are also not satisfied or waived, by the date being six (6) months following the Sixth Amendment Effective Date, then this Agreement shall automatically terminate, whereupon the Deposit currently held by the Seller shall be promptly returned to Purchaser and this Agreement shall thereafter be of no further force or effect and all liability and obligations under this Agreement shall be terminated, unless the Seller and Purchaser stipulate in writing to extend the Closing to a date certain, in which case the date specified in that written stipulation shall be the Closing Date.

The language requiring approval of the Brownfield and Act 381 plans before purchaser is obligated to close is in Paragraph 6 of the Conditional Agreement. The language regarding the CRD approval as a condition before purchaser is obligated to close is in Paragraph 7 of the Conditional Agreement.

The Sixth Amendment is effective as of January 21, 2021. So, a closing date of 7 months from that date is July 21, 2021; however, the language above says that if those items are not satisfied or waived by purchaser by June 21, 2021, then the agreement *automatically* terminates.

These items are not likely to get approved by June 21, 2021. If purchaser intends to go forward without waiver of those items, the Conditional Agreement would need to be extended by Council again to allow time for that to happen. While technically the purchaser could waive those items, it is unclear that it would do so—especially the Brownfield approvals, which would fund the cleanup required under the Conditional Agreement and the PRO Agreement. Presumably, the CRD is also important to purchaser. The applicant's representatives have also expressed a desire to have all other approvals for the project—site plan and engineering approvals—in place before closing. Those are likely several months away as well.

But to make clear that these other items that are not yet complete must each be completed or satisfied in a way that is acceptable to the City, and because the environmental clean-up aspect of the Conditional Agreement is of particular relevance to the City, the proposed motion to approve below is made *conditional* on all of that occurring.

RECOMMENDED ACTION:

Motion to grant *conditional* approval of the request of Robert B. Aikens & Associates, LLC and Robertson Brothers Homes, for Sakura Novi, JZ19-31, with Zoning Map Amendment 18.732, to rezone property from Office Service (OS-1), Office Service Commercial (OSC), and Light Industrial (I-1) to Town Center-1 (TC-1), subject to the attached Planned Rezoning Overlay (PRO) Agreement, the corresponding PRO Plan, the conditions of this Motion, and the conditions listed in the staff and consultant review letters, and also subject to any changes and/or conditions as discussed at the City Council meeting, with any final minor alterations required in the determination of the City Manager and City Attorney to be incorporated by the City Attorney's office prior to the execution of the final agreement.

This motion is made for the following reasons, and only upon the assumption that all conditions and requirements of this motion and the PRO Agreement, including but not limited to the approval of the Brownfield Plan and addressing the Corridor Improvement Authority and other items listed below, will be satisfied:

1. The proposed neighborhood-scaled, mixed-use, pedestrian accessible development would be in line with the intent of the 2016 Master Plan, or a reasonable alternative thereto. Developer indicates that the proposed development complements the 2016 Master Plan vision for a unique, well designed, mixed-use facility.
2. Sakura Novi, as a unique development, would reinforce the vision of the 2014 Town Center Area Study, namely by creating *a dynamic, attractive city core that provides residents and visitors with unique opportunities to participate in active community life, and meet their needs for goods, services, housing and entertainment.*
3. The proposed Sakura Novi, as a collection of restaurants, retail, and possible office uses is anticipated generating 170 permanent jobs.
4. The proposed residences at Sakura Novi will provide smaller footprint, middle-market rate residential rental offerings. The new homes would be a draw as temporary living opportunities for professionals and their families drawn to the City for work or other cultural reasons, as well as the large corporations that sponsor many of these families.
5. The developer indicates that the proposed Sakura Novi will reinforce Novi's tax base beyond the project itself by creating a platform that can foster partnerships among the City of Novi,

cultural institutions and the corporate community. An example provided is the partnership with the STAMPS School of Art and Design at UM, and the Japan America Society to create a Japanese themed illuminated applique (a back-lit piece laid over glass, proposed to be located on Building C facing Grand River).

6. The development will create a park-like environment around the existing pond, including a walking path around the pond and throughout the site, available to the general public. Landscaping treatments, the pathway, and a play area at the edge of the pond will "activate" the pond. These efforts will foster walkability and connectivity within an important corner at the heart of Novi, as well as potentially energize other areas in the Town Center core.
7. For all of the foregoing reasons, the proposal will result in an enhancement of the project area as compared to a "straight" TC-1 designation, and will result in significant benefits to the public that would not otherwise be available with a straight rezoning TC-1, and the deviations listed are necessary to secure the enhancements listed above and in the PRO Agreement.

This motion and this approval are also specifically subject to and conditioned upon the following:

1. This PRO approval shall not take effect until the following *additional* actions or approvals occur as contemplated in the Conditional Agreement for Purchase and Sale between The City of Novi and Sakura Novi, LLC, (the Conditional Agreement) dated June 21, 2018, as amended:
 - a. Final approval of a Brownfield Redevelopment Plan and Act 381 Plan by all applicable local and state agencies, upon terms and conditions acceptable to the City.
 - b. Final approval by the City and all applicable and necessary parties to removal of the Property (and the adjacent ECCO Tool properties) from the Corridor Improvement Authority, upon terms and conditions acceptable to the City, in order to accommodate priority of the reimbursement of TIF eligible expenses to the applicant.
 - c. If the applicant seeks a Commercial Rehabilitation Development exemption certificate in connection with the development of the property, the establishment of a Commercial Rehabilitation District by the City, and final approval of a Commercial Rehabilitation exemption certificate upon terms and conditions acceptable to the City.
 - d. Satisfaction of the terms and conditions of the Conditional Agreement in a manner acceptable to the City.
2. The PRO Agreement may not be signed, or recorded, and this PRO approval and this rezoning will therefore not be considered to be effective for any purpose, including but not limited to satisfaction of Paragraph 7 of the Conditional Agreement for Purchase and Sale, until the requirements in Item 1 subsections a through d above have been completed and satisfied.
3. Because the satisfaction of the requirements in Item 1 subsections a through d above are necessary to the findings of the Council above, the PRO Agreement shall only be signed and become effective concurrent with the Closing on the sale of the property pursuant to the Conditional Agreement for Purchase and Sale.

-OR-

Motion to deny the request of Robert B. Aikens & Associates, LLC and Robertson Brothers Homes, for Sakura Novi, JZ19-31, with Zoning Map Amendment 18.732, to rezone property from Office Service (OS-1), Office Service Commercial (OSC), and Light Industrial (I-1) to Town Center-1 (TC-1), *because*:

1. The proposed rezoning category requested by the applicant is not supported by the Future Land Use Map, which indicates TC Gateway. The Master Plan text recommends rezoning the property to TC, Town Center.
2. The applicant has not proposed significant site-specific regulations that are, in material respects, "more strict or limiting than the regulations that would apply to the land under the proposed new zoning district," as required under Section 7.13.2.c.
3. The proposed PRO Conditions, limitations on uses, or limiting regulations as required by the PRO ordinance are insufficient to allow the Council to conclude that the proposal will result in an enhancement of the project area as compared to a "straight" TC-1 designation, without a PRO, or that the benefits of the proposal can be found to clearly outweigh the reasonably foreseeable detriments thereof.
 - a. The uses proposed for the commercial area are not unique. No specific users or tenants have been identified, and no specific type or quality of user is identified or promised.
 - b. The buildings proposed are not of such exceptional or notable design, and do not propose the use of materials of such quality that use of the PRO is warranted. There is no iconic theme to the project as finally presented.
4. The applicant has not met its burden under the PRO ordinance to provide PRO Conditions that result in significant benefits to the public that would not otherwise be available with a straight rezoning TC-1. Any potential enhancements beyond what would be provided with a conforming development under typical zoning restrictions are not significant enough to warrant the approval of the PRO Concept Plan, particularly with the number of deviations contemplated.
 - a. The asserted public benefits of the project include right-of-way dedications that are typical and minor open space improvements.
 - b. The cost of the environmental clean-up is ultimately borne by taxing entities.
 - c. The demolition of the existing buildings would be accomplished by any development of the property.
 - d. The proposed PRO Agreement does not obligate the applicant to complete the commercial buildings in any particular order or by any specific time.
5. The applicant has requested an extensive number of deviations from ordinance requirements. The deviations are generally not caused by any irregularity in the shape of the property or its topography; the property is of significant size, with normal topography and limited woodland impacts in the development area. The need for the deviations is caused by the density of the development and the desire for specific improvements. The deviations do not result in a notable enhancement of the development, and in fact include multiple deviations from landscaping and screening requirements, as well as setback reductions for the purpose of increasing the number of buildings on the site. Granting the deviations does not enhance the development in a way that is in the public interest, as opposed to the applicant's, and is not required for achieving the goals and objectives of the master plan.
6. The development as finally proposed does not comport with the representation in the Conditional Agreement of Purchase and Sale of the project as a unique development designed around an iconic specialty market with a cohesive theme and specific aesthetic. While some of those design elements exist, the development as a whole is no longer consistent with the initial representations. The project as now proposed is not of such significance to the City to merit a community rehabilitation tax exemption of lengthy duration.

PLANNED REZONING OVERLAY (PRO) AGREEMENT

SAKURA NOVI

AGREEMENT ("Agreement"), by and between **SAKURA NOVI LAND DEVELOPMENT, LLC**, a Michigan limited liability company, whose address is 350 North Old Woodward Ave, Ste 300, Birmingham, MI 48009 (referred to as "**Developer**"); **ECCO TOOL CO. INC.**, a Michigan corporation, whose address is 42525 W. Eleven Mile Road, Novi, MI 48375 (referred to as "**ECCO**"); and the **CITY OF NOVI**, whose address is 45175 Ten Mile Road, Novi, MI 48375-3024 (referred to as the "**City**").

RECITATIONS:

- A. Developer is the prospective purchaser and developer of:
- (1) Two separate parcels of property owned by the City of Novi. The "**Anglin Parcel**" (Parcel No. 22-23-126-006, approximately 9.9 net acres) is located on the north side of Grand River Avenue east of Town Center Drive. The "**Eleven Mile Parcel**" (Parcel No. 22-23-226-008, approximately 1.867 net acres) is located on Eleven Mile Road near the Anglin Parcel.
 - (2) One parcel of property owned by ECCO (Parcel No. 22-23-226-007 and part of Parcel No. 22-23-126-011, approximately 3.52 net acres) that is adjacent to the City's Eleven Mile Parcel (the "**ECCO Parcel**").

The Anglin Parcel, the Eleven Mile Parcel, and the ECCO Parcel (collectively referred to herein as the "**Overall Land**") are more particularly described and depicted on **Exhibit A**, attached hereto and incorporated herein.

As used herein, the term "**Commercial Land**" shall refer to Unit 1 as depicted on the proposed condominium plan attached hereto and incorporated herein as **Exhibit B** (the "**Condominium Plan**"). As used herein, the term "**Residential Land**" shall collectively refer to Unit 2 and Unit 3 as depicted on the Condominium Plan. As further described herein, however, part of Units 1 may be re-designated for residential use, but only with the approval of, and upon conditions and requirements determined by, the City.

- B. ECCO has consented to Developer's application for rezoning of the ECCO Parcel and to the terms and conditions of this Agreement and its recording at the Oakland County Register of Deeds. The City has consented to Developer's application for rezoning of the Anglin Parcel and the Eleven Mile Parcel and to the terms and conditions of this Agreement and its recording at the Oakland County Register of Deeds.
- C. Developer petitioned the City for an amendment of the Zoning Map, as amended, so as to reclassify the Overall Land zoned Office Service (OS-1), Office Service Commercial (OSC), and Light Industrial (I-1) to Town Center-1 (TC-1) utilizing the City's Planned Rezoning Overlay (PRO) option. The OS-1, OSC, and I-1 classifications shall be referred to as the "**Existing Classification**" and the TC-1 classification shall be referred to as the "**Proposed Classification.**"
- D. The Proposed Classification would provide Developer with certain material development options not available under the Existing Classification and would be a distinct and material benefit and advantage to the Developer.
- E. The City has reviewed and, under the terms of the Conditional Agreement for Purchase and Sale between the City and Developer, approved submission of the petition from Developer to amend the Existing Classification of the Overall Land to the Proposed Classification, including the Developer's proposed PRO Plan (including the uses authorized in this Agreement as the only uses permitted on the Overall Land, the site layout, and the building façades, elevations, and design) attached hereto and incorporated herein as **Exhibit C** (the "**PRO Plan**") under the terms of the Planned Rezoning Overlay (PRO) provisions of the City's Zoning Ordinance. The PRO Plan is a conceptual or illustrative plan for the potential development of the Overall Land under the Proposed Classification. Approval by the City of the PRO Plan is not an approval to construct the proposed improvements shown thereon, as any development on the Overall Land will require final site plan approval from the City as provided by this Agreement.

The City has further reviewed both (i) the requested deviations as contained in this Agreement (the "**Deviations**") from the strict terms of the City's Zoning Ordinance and other land use ordinances and regulations (collectively, the "**City Ordinances**") and (ii) the proposed PRO Conditions (as defined in Paragraph G(iv) below) offered or accepted by Developer, and has concluded the following: (1) that the proposed PRO Plan constitutes an overall public benefit that outweighs the Deviations to the City Ordinances; (2) that a determination not to approve the Deviations would impede an enhancement of the Development that is in the public interest; and (3) that approving the Deviations would be consistent with the City's Master Plan and compatible with the surrounding area. Without the PRO Conditions as set forth herein and Developer's (and/or its successors' and assigns') continuing obligations to comply with the terms of this Agreement, however, the

City would not have approved the rezoning to the Proposed Classification or the Deviations.

- F. Developer desires to proceed with obtaining the site plan and engineering approval and the issuance of permits required to develop the Overall Land in accordance with the approved PRO Plan (collectively, the "**Development**"). The City desires to ensure that all of the land that is depicted on the PRO Plan is developed in accordance with, and used only for the specific uses permitted by, this Agreement, the related documents and undertakings of Developer, and all applicable laws, City Ordinances, regulations, and standards of the City and other regulatory bodies. This Agreement will govern the development of the Overall Land and is to be recorded with the Register of Deeds for the County of Oakland following execution by the parties.
- G. As an integral part of the Developer's request to the City for rezoning to the Proposed Classification, Developer agrees to complete the Anglin Parcel Demolition, the Environmental Remediation, and the clearing and balancing of the Overall Land (as those terms are defined below) and to develop and construct the sanitary sewer, storm water sewer system, utilities, roads, municipal water system, sidewalks, and other infrastructure necessary to develop and use the Overall Land in conformance with the following undertakings and forbearances by Developer (such undertakings and forbearances hereafter referred to as the "**Undertakings**"):
- i. **Uses Permitted.** The Development will be a high-quality mixed-use development on the Overall Land, with commercial development on the Commercial Land and residential development on the Residential Land, with access points from Grand River Avenue and Eleven Mile Road and common infrastructure. The commercial development has been and shall be designed by Developer to predominantly include the types of design features that which create a contemporary Asian/Asian-American retail atmosphere and shall have Asian-themed landscaping and a water feature/pond area. Architectural design, building elevations, building materials, and site amenities shall be as set forth in the PRO Plan; provided that with respect to the commercial buildings, the final design features, elevations, and materials shall be supplemented in order to comply with this provision and such compliance shall be determined by the Planning Commission at the time of site plan approval. The Residential Land is intended to be aesthetically harmonious with the Commercial Land. The Development's architectural design, building elevations, building materials, and site amenities as subject to further approval by the City (1) are essential requirements of the City in approving the PRO Plan and this Agreement, and (2) together constitute a significant basis for the City's determination to sell the Anglin Parcel and the Eleven Mile Parcel to Developer.

The Overall Land will be developed in phases and/or sub-phases, which are illustrated in the phasing plan attached hereto and incorporated herein as **Exhibit D** (the "**Phasing Plan**").

Phase 1: This Phase will consist of three sub-phases as depicted on the Phasing Plan; provided, however, that the site plan submitted to and approved by the City shall be for the entire Phase 1 area, regardless of whether Developer builds the buildings in sub-phases (specifically Phase 1A, 1B, and/or 1C below). Developer may obtain building permits separately for the different sub-phases, in accordance with City Ordinances and requirements applicable to the construction occurring and subject to Developer providing all required financial guarantees, in accordance with City requirements and subject to City approval, for any final asphalt course paving and landscaping).

Phase 1A: Approximately 13,102 square feet of restaurants and/or retail ("**Building C**"); Approximately 15,000 square feet of restaurants and/or retail ("**Building D**"); approximately 13,500 square feet of professional office, restaurant, and/or retail ("**Building A**"); and a commercial building ("**Building B**") of between approximately 3,000 square feet minimum and 4,505 square feet maximum.

Phase 1B: 50 multiple-family residential units

Phase 1C: Up to 68 multiple-family residential units

Phase 2: The area depicted as Phase 2 may be developed as parking in connection with the Commercial Land or it may be developed with multiple-family residential units. Developer has depicted the area as part of Unit 2 for purposes of the PRO Plan and Condominium Plan. If Phase 2 is proposed to alternatively be used for multiple-family units, the number of units will be limited to 15, and Developer will be obligated to redesign and relocate the loading areas and dumpster locations for Buildings A and D currently shown on the PRO Plan for Phase 1, and provide for the proposed alternative improvements on the Phase 2 property, in a manner that meets all ordinance requirements without deviation except for the Deviations as authorized in Section 2 below. Any change to the Phase 2 area from that shown on the PRO Plan will be subject to approval by the City at the time of site plan approval for any improvements on the property and, if required, amendment to the Condominium Plan approved by the City.

Notwithstanding anything else in this Agreement, the PRO Plan, the Zoning Ordinance, currently or as amended, or the City Ordinances, currently or as amended, no part of the Overall Land or the Development may be used for the following uses: gas station or auto service/repair, tattoo parlor, adult business, smoke shop, marijuana use of any kind, or hookah bar/lounge or similar use.

- ii. **Compliance with Applicable Laws and Regulations.** Except as expressly authorized herein, the Overall Land shall be developed in accordance with this Agreement, the PRO Plan, all applicable State, County and City statutes, codes, ordinances, regulations, and the City Ordinances, including all applicable requirements of the Zoning Ordinance under the Proposed Classification, and further including all storm water and soil erosion requirements and measures during the design and construction phases of the Development and during the subsequent use of the Overall Land as contemplated in this Agreement (collectively, the “**Legal Requirements**”).

The Deviations from the provisions of the City Ordinances, rules, or regulations are depicted in the PRO Plan and are approved by this Agreement; however, except as to the Deviations, the Overall Land shall be subject to and developed in accordance with all applications, reviews, approvals, permits, and authorizations required under applicable Legal Requirements, including, but not limited to, site plan approval, storm water management plan approval, woodlands and wetlands permits, façade approval, landscape approval, and engineering plan approval.

- iii. **Timing of Development and Remediation/Land Balancing:**
 - a. **Phase 1.** Phase 1 of the Development shall include all of the following:
 - (1) Demolition of the buildings on the Anglin Parcel. Developer shall make a complete application for a demolition permit to remove all of the buildings and related improvements on the Anglin Parcel, and shall request shutoff of all utilities within thirty (30) days after the later to occur of the closing on the acquisition of the Anglin Parcel and Eleven Mile Parcel from the City or the effective date of this Agreement. Developer shall, within sixty (60) days after securing or completing utility shutoffs and receipt of such demolition permit, complete the demolition of all existing buildings and improvements on the Anglin Parcel, including but not limited to, the former home,

car wash, commercial building, and any other existing outbuildings or improvements, including any and all paving and foundations (the "**Anglin Parcel Demolition**")

- (2) Clearing and Land Balancing of the entire Overall Land; i.e., both the Commercial Land and the Residential Land within sixty (60) days of the later to occur of the issuance of all applicable permits for the environmental remediation and the completion of the Anglin Parcel Demolition, provided that Phase 1C may be used for the storage of topsoil and fill for Phases 1A and 1B before Phase 1C is fully balanced and graded. All cleared areas shall be properly stabilized and maintain soil erosion controls as required by applicable laws and regulations.
- (3) Completion of all aspects of the Environmental Remediation. As detailed in the Phase 1 and Phase 2 environmental reports secured by the City, and in the Brownfield Plan submitted by Developer to the Oakland County Brownfield Redevelopment Authority, certain areas within the Overall Land contain hazardous materials. Developer shall complete the environmental remediation set forth in its Brownfield Plan ("**Environmental Remediation**") within six (6) months after the later to occur of the issuance of all applicable permits for such remediation and the completion of the Anglin Parcel Demolition.
- (4) Construction of the buildings and all related infrastructure/utility improvements shown on the PRO Plan (including the Utility Plan) for sub-phases 1A, 1B, and 1C in accordance with final plans approved by the City. Developer shall immediately after the effective date of this Agreement apply for and proceed expeditiously to secure all required approvals and permits for the Development of sub-phases 1A, 1B, and 1C, with the expectation of being able to commence the improvements listed in this subsection no later than ninety (90) days after the completion of Environmental Remediation, weather permitting, but in no event later than twelve (12) months following the closing on the acquisition of the Anglin Parcel and Eleven Mile Parcel from the City. Developer shall promptly begin and diligently prosecute to completion the construction of the buildings in Phase 1A and Phase 1B. Construction of Building C in Phase 1A shall be commenced before construction of any buildings in Phase 1B.

- (5) Improvements to the Pond area with Asian-style landscaping and a walkway around the perimeter to serve as a focal point and public gathering space, including an interactive play feature and pond platform in accordance with the PRO Plan (collectively, the "**Pond Development**").
- b. **Phase 2.** The timing of commencement of the alternative Phase 2 multiple-family residential improvements will be determined by Developer, with approval by the City.
- iv. **PRO Conditions.** As part of its approval of the PRO Plan and this Agreement, the City Council made certain findings as required by the Zoning Ordinance. Those findings were based in part on the fact that the Developer has agreed that the following conditions shall apply to the Overall Land (collectively, the "**PRO Conditions**"). The Developer (or its successors or assigns) shall be responsible for obtaining all permits, licenses, or approvals required for the development, construction, use, and occupancy of the Development.
 - a. Development Enhancements offered by Developer.
 - (1) Dedication of Rights-of-Way. Developer shall dedicate the areas shown on the PRO Plan as follows: (i) the existing and future (35-foot half-width) rights-of-way on Eleven Mile along the frontage of the ECCO Parcel; (ii) the 10 additional feet of future right-of-way on Grand River Avenue along the frontage of the Anglin Parcel; and (iii) the 2 additional feet of future right-of-way along the frontage of parcels on Eleven Mile Road (City owned parcels). Developer shall convey such areas to the City by warranty deed at the time of closing with the City under the Purchase Agreement for the Anglin Parcel and the ECCO Parcel, as applicable. The conveyance by the City of the Eleven Mile Parcel to Developer will not include the existing and future rights-of-way along Eleven Mile Road, which will be retained by the City.
 - (2) Easement for Public Art (or another amenity). Developer shall provide an easement area at the southeast corner of the site, as shown on the PRO Plan, for the use as for a public art display or another amenity for the public (the "**City Art Easement Area**"). The City Art Easement Area shall be approximately 1,200 square feet in area. The Developer will provide the walkways, landscaping, and seating area as shown on the PRO Plan, in a manner consistent with the rest of the Development in Phase 1A as determined by the City.

The Condominium Documents to be created as set forth in Section G(ix) below shall provide (in a form and manner to be determined by the City) who, other than the City, shall be responsible for general maintenance and upkeep of the City Art Easement Area in perpetuity, so that it continues to function as intended. The City shall be entitled to (but not obligated to) select, install, and maintain, at its sole cost, the public art piece(s) or other public amenity and any associated lighting at City's sole discretion. The City may change or replace the public art or amenity with reasonable notice to the Condominium Association(s) to be formed as described below. The Easement shall be located in an area designated General Commercial Element (GCE) on the Condominium Plan.

- (3) Walkable Novi Contribution. Developer shall contribute \$117,001.00 to a dedicated account to fund projects identified through the Walkable Novi program in the vicinity of the Overall Land. This amount is based on the approximate cost of Segment #66 listed on Page 19 of the "Annual Non-Motorized Prioritization: 2019-2020 Update." Payment by Developer to the City shall occur on or before the receipt of any certificate of occupancy for any building in Phase 1A.
- (4) Town Center Sidewalk Connection. Developer will include in the site plan for Phase 1A a sidewalk connection along Grand River from the Commercial Land to the intersection at the corner of Grand River Avenue and Town Center Drive (the "**Sidewalk Connection**"). The City will secure approvals for the installation of the sidewalk for construction as part of Phase 1A. The cost of the installation shall be borne by Developer. If the City is unable to secure approvals before Developer secures any certificate of occupancy for Phase 1A, Developer shall contribute the estimated cost of the improvements (as determined by the City's engineering consultants) into the City's sidewalk fund.
- (5) Recreational Amenity/Pond Area. Developer shall build an approximately 1,800 square foot multi-use/multi-generational recreational amenity (the "**Recreational Amenity**") in the general area of the northwest corner of the Pond. The Recreational Amenity shall be subject to City approval as part of Phase 1 site plan approval and shall be consistent with, and of the same scale and quality as, the conceptual samples submitted to the City as part of the PRO Plan. The Recreational Amenity shall be constructed by Developer as

part of Phase 1B. If the Recreational Amenity is not completed and approved upon the issuance of the first certificate of occupancy for Phase 1B, Developer shall post cash or a letter of credit acceptable to the City to secure the completion of the Recreational Amenity no later than the completion of Phase 1B. The Recreational Amenity shall be located within the GCE area shown on the Condominium Plan.

(6) Observation Plaza. Developer shall build an approximately 700 square foot meditative Observation Plaza (the "**Plaza**") on the east side of Phase 1C, overlooking the eastern detention area and the adjacent property owned by the City, as shown on the PRO Plan. The Plaza shall be consistent with, and of the same scale and quality as, the conceptual samples submitted to the City as part of the PRO Plan. The design of the Plaza shall be approved by the City as part of the site plan for Phase 1C and shall be constructed as part of Phase 1C. If the Plaza is not completed and approved upon the issuance of the first certificate of occupancy for Phase 1C, Developer shall post a letter of credit acceptable to the City to secure the completion of the Plaza no later than the completion of Phase 1C.

(7) Library Area. Developer will work with the Novi Public Library to establish an area within Phase 1A similar to a Free Little Library to be curated by the Library, or pursue a suitable similar alternative that must be agreeable to the City. The exact area shall be determined at the time of site plan approval for Phase 1.

b. Anglin Parcel Demolition. Developer shall secure all required permits for the Anglin Parcel Demolition, including permits for removal and fill, demolition, wetlands or wetland buffer disturbance (if any), and land improvement. All debris and materials shall be removed from the Anglin Parcel and properly and legally disposed of at Developer's sole cost. At the completion of the demolition and removal, any property remaining as excavated/graded that is not actively being developed as part of Phase 1 shall be properly backfilled and compacted as approved by the City

c. Environmental Remediation. Completion of the Environmental Remediation as described above shall be considered an integral part of the Development.

- d. Architectural Design. Because the Overall Land is located in a very prominent part of the City, at a major intersection within the Town Center/Main Street area, the look and feel of any proposed development thereon is of paramount importance to the City. The appearance of the Development factored into the City's determination to sell its property to Developer and into the City's approval of the Proposed Classification and this Agreement. The City, as the seller of a portion of the Overall Land, required the submission of detailed plans showing the site layout and architectural renderings before entering into a purchase agreement with Developer. In addition, as part of the PRO approval process, the Developer submitted ~~conceptual~~detailed building elevations, information regarding façade materials, landscaping, and site layout details, that have been incorporated into the PRO Plan as approved in this Agreement. In addition, Developer has made representations to the City, including in this Agreement, as to the further intention to design the commercial buildings in a manner that will create a contemporary Asian/Asian-American retail atmosphere, subject to further City review and approval. The City took those representations into consideration when determining to complete the sale and to approve the PRO Plan, including all of the Deviations from City Ordinance standards required and listed in this Agreement. The site layout, building designs and architectural styles as submitted to the City and approved in the PRO Plan and this Agreement, subject to the supplementation and further review and approval by the City as provided in this Agreement, are therefore Conditions of this Agreement.

As a further Condition of this Agreement, Developer shall include high-quality (e.g., in conjunction with the Stamps School of Art and Design) Japanese-themed artwork as part of the design of Building C, to be approved by the City at the time of site plan approval for Phase 1.

- e. Residential Density Limitations.

(1) The maximum number of dwelling units to be constructed on the Residential Land in Phase 1B shall be 50.

(2) The maximum number of dwelling units to be constructed on the Residential Land in Phase 1C will be 68 (reduced to 67 if Phase 2 units are constructed).

(3) The maximum number of dwelling units to be constructed in alternative Phase 2 will be 15.

f. Non-Residential Design and Use Limitations. Building A shall be limited to approximately 13,500 square feet to be used for high-quality restaurant, and/or retail uses which may include a specialty market, and/or Class A professional office space.

Building B shall be limited to between approximately 3,000 square feet minimum and 4,505 square feet maximum of high-quality single-user restaurant use.

Building C shall be limited to approximately 13,101 square feet of restaurant and/or retail uses with a dynamic and high-quality tenant mix; provided, however, that 50% of the building shall be used for restaurant uses.

Building D shall be limited to approximately 15,000 square feet of high-quality restaurant and/or retail uses, which may include an iconic specialty market.

g. Woodlands. Woodland tree removals shown in the PRO Plan (the "**PRO Plan Tree Removal**") shall be approximately 133 trees, which shall require 269 woodland replacement credits. Developer will plant a minimum of 17 credits as replacements on the Overall Land through the planting of canopy trees, evergreen trees and native groundcover seeding. Native ground cover seeding shall not exceed 5% of the replacement credits planted on site. All woodland replacement credits planted on-site shall be permanently protected via conservation easement or landscape easement. Any credits not planted on site will require a payment of \$400 per credit into the Novi Tree Fund.

Any additional regulated woodland tree removals not shown in the PRO Plan Tree Removal shall meet the requirements of the City of Novi Woodland Protection Ordinance and may be granted administratively up to 10 trees with proper justification. If additional regulated trees proposed for removal exceeds 10, Planning Commission approval must be granted. All trees removed that are not shown in the PRO Plan Tree Removal shall be replaced as required by the Novi Woodlands Protection Ordinance.

h. Wetlands. The City has approved a wetland permit for the wetlands shown in the PRO Plan ("**Approved Wetland Impacts**"). The Approved Wetland Impacts require mitigation in accordance with the City of Novi Wetland and Watercourse Ordinance. Such mitigation may, in accordance with Paragraph 2 below, Deviations, be accomplished through the purchase of wetland mitigation credits in

an EGLE-approved wetland mitigation bank. Setbacks from Approved Wetland Impacts are shown in the PRO Plan.

- i. Noise. Developer shall provide a Noise Impact Statement at the time of preliminary site plan submittal for Phase 1 to determine if ordinance performance standards will be exceeded. Any necessary mitigation measures shall be provided if standards are exceeded, in order to protect future residents of the Phase 1C (and possible alternative Phase 2) units from excessive noise impacts from the existing ECCO Tool business.
- j. Signage. Except as specifically authorized within the Deviations below, signage shall conform to the Sign Ordinance requirements. Any signs within a public utility easement will require a license agreement unless otherwise approved by the City Engineer.
- k. Site Utilities and Access. All of the utilities (water, sewer, and storm water) servicing each phase (or subphase) shall be constructed according to the approved Utility Plan provided as part of the PRO Plan, subject to final engineering plan approval by the City at the time of site plan approval. Such Utility Plan may be amended or modified during the site plan approval process as approved by the City. Each phase (or subphase) shall stand on its own and be complete to the extent required for occupancy prior to issuance of a certificate of occupancy.

Access: The installation of roads, drives, and curb cuts for each phase (or subphase) shall be determined at the time of preliminary site plan approval for each phase (or subphase). Each phase (or subphase) shall stand on its own and be complete to the extent required for occupancy prior to issuance of a certificate of occupancy.

Developer shall ensure that once constructed, all required vehicular and pedestrian access for a particular phase (or subphase) shall remain open to all required parts of the Development and be properly maintained, including but not limited to the public and private sidewalks, and exterior light fixtures.

Water and Sewer: Developer shall construct and install the improvements and/or connections tying into the municipal water and sewage systems

All water and sewer improvements shall be designed and constructed by Developer in accordance with the approved phased PRO Plan and all applicable Legal Requirements, subject to final engineering plan

approval at the time of site plan review. Such water and sanitary sewer facilities, including any on-site and off-site facilities, if any, extensions, and easements to reach the area to be served, shall be provided by and at the sole expense of the Developer, and shall be completed and approved for each respective phase (or subphase) determined at the time of site plan approval before issuance of any building permits for any building in each respective phase (or subphase).

Storm Water: The storm water management system for the Overall Land shall be approved by the City as part of the review and approval of the engineering plans for the Overall Land and will be installed by the Developer on a phase-by-phase basis. In general, the storm water collection, pre-treatment, storage, and transportation facilities shall be included as part of the final engineering plan independently approved for any phase or subphase of the Development. The Development shall be constructed to achieve a storm water management system that assures that the quality and quantity of storm water will be in accordance with all applicable ordinances, regulations, and laws.

- I. Land Division and ECCO Tool. The parties acknowledge that a land division will be required for that property owned by ECCO into (1) the ECCO Parcel proposed to be developed under the PRO Plan and this Agreement and (2) the portion of the property owned by ECCO that is being retained by ECCO and not proposed to be developed hereunder (the "**Retained ECCO Parcel**"). The parties agree to undertake all actions necessary to complete said land division simultaneous with the closing on the City Parcel. The Retained ECCO Parcel will continue its current operations, will become a legally non-conforming use and a legally non-conforming site. The Retained ECCO Parcel is depicted on **Exhibit D**, which is the Phasing Plan. The Retained ECCO Parcel and the use thereof will be subject to the provisions of the City's Zoning Ordinance that relate to non-conformities. Future re-development of the Retained ECCO Parcel shall be as provided in the regulations for the TC-1 District, or as alternatively provided in an amendment to this Agreement.

The parties further agree that it is a condition of this Agreement that:

1. Access for delivery trucks on the Retained ECCO Parcel shall be as provided in the PRO Plan, and a cross access agreement acceptable to all parties, including by the City as part of its final site plan review, shall be required.

2. Twelve (12) parking spaces shall be provided on the Retained ECCO Parcel.
 3. Developer shall demonstrate that the remaining ECCO Parcel shall be served by the development's overall storm water management plan as determined by the City at the time of site plan approval.
 4. Developer shall provide any utility (water and sewer) stubs to the ECCO Parcel as required by the City at the time of site plan approval.
- v. **Performance Guarantees.** The City shall require Developer to provide performance and financial guarantees for the completion of the improvements, including, without limitation, right-of-way improvements, water mains, sanitary sewers, storm drains, site amenities, and landscaping and tree planting activities. Such financial guarantees shall cover the site improvements for each phase or sub-phase of the project (Phase 1A, 1B, 1C, and Phase 2) as determined by the City. Such financial guarantees may include cash deposits or letters of credit as allowed by the current provisions of the City's Code of Ordinances. Deposit and administration of financial guarantees shall be subject to the requirements and conditions of Chapter 26.5 of the City of Novi Code and any other related rules or regulations. Any deviations or requests for relief from this provision shall be considered by City Council as a deviation from Chapter 26.5, and will not require an amendment to the PRO Agreement or PRO Plan if approved by the City Council.
- vi. **Compliance with Laws.** The development and use of the Overall Land shall be in accordance with all applicable laws, ordinances, and regulations, including all applicable setback requirements of the Zoning Ordinance under the Proposed Classification, except as expressly authorized herein, and all storm water and soil erosion requirements and measures, both throughout the site during the design and construction phases of the Development and during the subsequent use of the Land as contemplated in this Agreement.
- vii. **Other City Authority.** Nothing in this Agreement shall prevent the City from exercising its regulatory and other authority with respect to the Overall Land and the Development in a manner consistent with the PRO Plan and this Agreement.
- viii. **Application Fees; Connection Fees.** The Developer shall be responsible to pay all application and review fees as and when required under the City Ordinances, including but not limited to planning, engineering, legal, and any consultant fees in connection with the review and approval of the

Development. Such amounts shall be due upon invoice, and failure to pay amounts owed shall entitle the City to cease review, approval, and/or issuance of permits. In addition, the Developer shall pay all required water and sewer connection and tap charges and fees, without reduction, as provided in the City Ordinances as and when required. Such fees may be timely paid by others in connection with the development of individual unit owners.

- ix. **Creation of Condominiums; Master Deed.** Developer shall have the obligation and responsibility to organize a condominium association (or associations) for the development. The Master Deed and Bylaws for the condominium(s) ("**Condominium Documents**") shall prescribe the responsibilities of the condominium association(s); set forth the manner, method and timing of transferal of maintenance responsibilities for common areas and facilities to the association(s); provide a feasible method of funding maintenance activities, such as annual dues and/or assessments of the association(s); and reserve rights to the City to enforce or undertake maintenance related to the common areas after notice and opportunity to cure is first provided to the association(s) pursuant to Paragraph ix below.

The restrictions and obligations set forth in the respective Condominium Documents of the Association(s) shall be binding upon the owner(s) of the units within each Condominium ("**Owner(s)**") and shall run with the land described in this Agreement as the "**Land.**" Each reference to "owners" in this Section shall include the following: Developer so long as Development maintains any ownership interest in any portion of the Land and the PRO has not been fully developed in accordance with the PRO Documents, and thereafter the Condominium Association(s) established for the development. The Master Deed and Bylaws shall include provisions obligating the Owner(s) to maintain and preserve the road, landscaping, lighting, signage, greenbelts, open areas, pedestrian walkways and open area amenities, setbacks, storm drainage, detention and retention facilities and easements, woodlands, wetlands, and any other limited and general common elements and improvements for or within the Development in good working order and appearance at all times and in accordance with the PRO Plan and this Agreement.

Developer shall be responsible for maintenance of open space areas and maintenance of drains until the Developer assigns and the association accepts such responsibilities to the Condominium Associations to be organized. References to the requirements and regulations applicable to the Land under the PRO Plan, PRO Conditions, and this Agreement shall also be included within the Master Deed for the development in a manner reviewed and approved by the City Attorney and Director of Community

Development, including the City's enforcement rights as provided herein. Upon its approval by the City, the Master Deed and Bylaws shall be and remain recorded at the Oakland County Records at all times as a condition of this PRO.

- x. **Property Maintenance Obligations.** Developer agrees, at its expense, to operate, maintain, repair, manage, and improve the entire Development site during buildout of the development. Developer and/or the Condominium Association(s) created in accordance with the Master Deed for the development as described elsewhere in this Agreement shall be responsible to preserve and maintain the open space, storm water drainage facilities, private roads, sidewalks and pathways, pond, and any and all areas disturbed in connection with the Development to ensure that the same continue to function as intended, and are stabilized, and meet all standards of applicable laws and ordinances for property maintenance, including, but not limited to regular snow and ice removal. Developer and/or the Association(s) shall establish a regular and systematic program of maintenance for the development to ensure that the physical condition and intended function of such areas and facilities shall be perpetually preserved and maintained.

Notwithstanding any other remedies in this Agreement, in the event that Developer and/or the Association(s) shall at any time fail to carry out the responsibilities above, and/or in the event of a failure to preserve and/or maintain such areas or facilities in reasonable order and condition, the City may serve written notice upon Developer and/or the Association(s), setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time, and place of the hearing before the City Council, or such other Council, body, or official delegated by the City Council, for the purpose of allowing Developer and/or the Association(s) to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken.

At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council or other body or official designated to conduct the hearing determines that the required maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall have the power and authority, but not the obligation, to enter upon the property, or cause its agents or contractors to enter upon the property, and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation, including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative

fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by Developer and/or the Association(s), and such amount shall constitute a lien on an equal *pro rata* basis as to all of the residential lots on the property.

The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Developer or Association(s), all unpaid amounts may be placed on the delinquent tax roll of the City, *pro rata*, as to each lot, and shall accrue interest and penalties, and be collected as, and deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against Developer or the Association(s), and, in such event, the Developer and/or Association shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

- xi. **Staff and Consultant Review Letters.** Developer shall comply with all conditions listed in the staff and consultant review letters not inconsistent with the terms of this Agreement.
- xii. **Developer Representations.** Developer hereby makes the following acknowledgments, representations, and warranties to City, which representations and warranties shall be true and correct as of the date hereof:
 - a. Developer is duly organized and validly existing, in good standing under the laws of the state of Michigan, authorized to do business under the laws of the state of Michigan and has all requisite power and authority to own and operate its assets and properties, to carry on its business as now being conducted, and to enter into and perform the terms of this Agreement. Developer has provided City with an accurate and complete copy of its Articles of Organization and Certificate of Good Standing in effect as of the date of this Agreement ("Organizational Documents"), and agrees to provide accurate and complete copies of any revisions or modifications to the Organizational Documents.
 - b. Developer has no notice of and there is no pending litigation, administrative action or examination, claim or demand before any court or any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality thereof which would affect Developer or its principals from carrying out the covenants and promises made herein.

- c. Developer is financially able to complete the Development.
- d. Developer shall construct all improvements for the Development in a good and workmanlike manner employing quality contractor(s), construction manager(s), and other professional possessing the requisite experience and competency to construct such improvements.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Developer Obligations.** Upon execution of this Agreement by the parties:
 - a. The Overall Land shall be developed only in accordance with the Undertakings, the PRO Plan, the PRO Conditions, Legal Requirements, City Ordinances (as amended), and this Agreement (collectively, the "**PRO Documents**");
 - b. Developer shall comply with the PRO Documents;
 - c. Developer shall forbear from acting in a manner inconsistent with the PRO Documents;
 - d. Developer shall complete all actions necessary to carry out all of the obligations in the PRO Documents.

2. **Authorized Deviations.** The following deviations from the standards of the Zoning Ordinance are hereby authorized pursuant to §3402.D.1.c of the City's Zoning Ordinance:
 - a. Deviation from Section 3.27.1.C to allow a minimum exterior side yard setback of 10 feet (50 feet required) for Buildings A & D, where adjacent to B-3 zoning to the east.
 - b. Deviation from Section 3.27.1.C to allow building and parking setbacks to be reduced up to 0 feet when adjacent to general common element boundary areas within a condominium.
 - c. Deviation from Section 4.82.2.e. to allow second floor residential balconies to encroach 4 feet into the front yard setback (11 feet instead of 15 feet required) along Eleven Mile Road.
 - d. Deviation from Section 3.1.26 to allow a reduction of the side yard parking setback (5 feet instead of 10 feet required) in Phase 1 on the western property line with the Town Center green space area adjacent. This deviation also allows the parking setback to be reduced to 5 feet (10 feet

required) for the parking area south of Building 21 (Phase 2 residential option) adjacent to the B-3 zoned parcel.

- e. Deviation from Section 3.6.2.M to eliminate the wetland setback (25 feet required) around the pond feature. This deviation also pertains to the far eastern portion of site, abutting the City-owned retention/wetland basin.
- f. Deviation from Section 3.1.26.D to allow the existing front yard parking lot along 11 Mile Road for ECCO Tool shop (approximately 15 feet measured from ROW, instead of 20 feet required). This deviation would not apply to any future redevelopment of the ECCO Tool parcel.
- g. Deviation from Section 3.1.26.D to allow the parking area in front of Building 12 on the northeast corner of the site to extend into the front parking setback (6 feet instead of 20 feet required).
- h. On the commercial buildings, Section 9 façade waivers to allow an overage of flat metal panels on the west and east facades of Building B; and an overage of EIFS on the west façade of Building C.
- i. On the residential buildings, a Section 9 façade waiver to allow an overage of cement fiber siding (up to 39% on front elevations, 58% on side elevations, 48% on rear elevations). On the rear elevation, a deficiency in the minimum of brick (15.5% instead of 30% required) as shown on the residential building elevations.
- j. Deviation from Section 3.27.1.H. and/or Section 5.4 to permit loading/unloading spaces of the commercial buildings to be located in rear and side yards, and for deficiencies in the size of loading area required, as shown on the PRO Plan, if truck turning movements are shown on the plans to demonstrate accessibility.
- k. Deviation from Section 3.27.2.B to allow the proposed Buildings A & D (PRO Office, Restaurant and Retail mix) to exceed 7,500 square feet of gross leasable floor area, with a total of approximately 29,000 square feet on one level, as identified on the plans as Building A and as Building D.
- l. Deviation from Section 3.27.2.B to allow Building C (13,102 square feet) to exceed 7,500 square feet, as it does not meet the exception criteria.
- m. Deviation from Section 5.7.3.K for site illumination level variance for multiple walkway areas and residential parking areas. Site walkway areas will vary below 0.2 foot candle minimum standard on the pathway around the water feature. Site walkway areas in the residential portion will vary below 0.2 foot candle minimum standard. Parking area in residential area will fall below 0.2 foot candle minimum standard in some locations.

- n. Deviation from Section 3.27.1.L to allow project-appropriate selection of exterior lighting fixtures, paved activity nodes, street/sidewalk furniture, safety paths, screening walls and planters.
- o. Deviation from Chapter 28 of the City Code for TC-1 tenant signage standards. Tenants may have both interior-facing and frontage-facing signage. The development will adhere to the requirements of the City Code, subject to the follow deviations:
 - i. Under Section 28-5.c.1.a, deviation to allow up to 2.5 square feet of signage per linear foot of contiguous public or private street frontage, up to a maximum of 130 square feet.
 - ii. Under Section 28-5.c.1.b, deviation to allow 2.5 square feet of signage per linear foot of contiguous public or private street frontage on a rear/secondary façade with a pedestrian entrance, up to a maximum of 130 square feet.
 - iii. Under Section 28-5.c.1.d, a deviation to allow 2 signs of equal permitted size for each interior retail/restaurant tenant not fronting public streets. Sign area allowed up to 2.5 square feet of signage per linear foot of elevation frontage, up to a maximum of 130 square feet. The signs shall be located no closer than 30 feet on center from any other similar sign (except those of the same message but different languages, which may be located closer), and shall be located adjacent to such parking lot or street, as applicable.
- p. Deviation from Section 5.3.2 to allow drive lane reduction to 20-22 feet in residential Phase 1C area as shown on the PRO Plan, provided no parking signage is posted in these areas and provided sufficient clearance is available for emergency vehicle movements.
- q. Deviation from Section 3.27.1.I to allow a 6-foot sidewalk along 11 Mile Road, instead of the 12.5-foot sidewalks required by the TC-1 District along non-residential collector and local streets.
- r. Deviation from Section 5.5.3.A to allow a continuous 6-foot evergreen hedge with densely planted deciduous canopy trees in lieu of the required 6-8 foot berm required when TC-1 district abuts a B-3 district.
- s. Deviation to allow ECCO Tool to continue to operate as a nonconforming use in the TC-1 district until their operations cease (subject to Paragraph J.iii.i above).
- t. Deviation from Engineering Design Manual Section 5.6.5 (b)(a) for lack of 25 foot vegetated buffer around the storm water management pond in the

residential use area.

- u. Deviation from Section 5.5.3.B.ii and iii. for lack of screening wall or berm for parking areas along Grand River, as fencing and landscaping will be provided as alternative screening.
- v. Deviation from Section 5.5.3.B.ii and iii. for insufficient greenbelt width and berm between parking lot and 11 Mile Road (Phase 1C), as a retaining wall will provide alternative screening.
- w. Deviation from Section 5.5.3.F.iii.b.3 for a deficiency in foundation plantings along the building perimeter facing the interior drives of multifamily residential buildings.
- x. Deviation from Section 5.5.3.A.ii Footnote 1 for not providing a 6-foot wall when non-residential uses in the TC-1 District abut a residential use. Alternative screening shall be provided between residential and non-residential uses on the site.
- y. Deviation from Section 5.5.3.C for deficiency of 3 parking lot perimeter trees provided in Phase 1.
- z. Deviation from Section 4.19 of the Zoning Ordinance to allow transformers to be located as shown in the PRO Plan, in the rear or side yard next to the loading zones of the buildings, in the commercial portion of the project if proper screening is provided.
- aa. Deviation from Section 12-176 of the Code of Ordinances to allow mitigation of wetland impacts in whole or in part through the purchase of credits in an EGLE-approved wetland mitigation bank. This deviation is unique to this parcel and its location within the City and is further subject to the following requirements:
 - i. Mitigation credits shall be purchased within an EGLE-approved wetland mitigation bank in the Ann Arbor Moraines ecoregion (Sub-section VI.1.2).
 - ii. The City's required 2.41 acres of wetland mitigation shall be purchased within a single wetland mitigation bank.
 - iii. All documentation of such purchase shall be provided to the City in order to demonstrate that the conditions of the City of Novi's wetlands permit have been fulfilled. Such documentation shall be reviewed and approved by the City's legal consultant.
 - iv. Documentation from EGLE authorizing the proposed wetland

impacts, as well as approval of the proposed wetland mitigation scenario, shall be received before issuance of a City of Novi wetlands permit.

3. **Revocation of Rights.** In the event Developer attempts to or proceeds with actions to complete improvement of the Land in any manner other than as described herein and shown on **Exhibit C**, the City shall be authorized to revoke all outstanding building permits and certificates of occupancy issued for such building and use.
4. **Modifications; Required Amendments.** Minor modifications to the approved PRO Plan may be approved administratively if the Zoning Ordinance (interpreted as though the approved PRO Plan is an approved site plan for purposes of this Paragraph only) would otherwise allow an administrative site plan review and approval, so long as the City Planner determines that the modifications (i) are minor, (ii) do not deviate from the general intent of the PRO Plan, and (iii) do not result in increased impacts on the surrounding development and existing infrastructure. The Planning Commission shall also be permitted to authorize amendments to the PRO Plan in its review of the site plans for individual phases or subphases of the Development, with regard to parking-related, landscaping-related, and façade-related requirements, provided it would otherwise have that authority under the Zoning Ordinance. The following changes shall be permitted to be approved administratively as long as additional deviations are not required and associated City Ordinance requirements can be met: (a) internal minor rearrangement of drive aisles as long as access and circulation are not adversely affected; (b) internal minor rearrangement of parking spaces as long as parking needs are not adversely affected; and (c) changes in floor plans and loading docks which do not alter the character of the Development or its use.
5. **General Provisions:**
 - a. The Zoning Board of Appeals (the “**ZBA**”) shall have no jurisdiction over the Overall Land or the application of this Agreement until after site plan approval and construction of the Development as approved therein. In no event shall the ZBA be permitted to vary any terms or conditions of this Agreement.
 - b. Except as may be specifically modified by this Agreement, the City Code and all applicable regulations of the City shall apply to the Overall Land. A violation of the City Code by Developer and/or any successor owners or occupants with respect to the Land shall be deemed a breach of this Agreement, as well as a violation of the City Code.
 - c. A breach of this Agreement shall constitute a nuisance *per se, which shall be abated*. Developer and the City therefore agree that, in the event of a

breach of this Agreement by Developer, the City, in addition to any other relief to which it may be entitled at law or in equity, or any other provisions of this Agreement, shall be entitled under this Agreement to relief in the form of specific performance (except as to construction of the buildings, unless construction of a building has commenced) and an order of the court requiring abatement of the nuisance *per se*. In the event of a breach of this Agreement, the City may notify Developer of the occurrence of the breach and issue a written notice requiring the breach be cured within thirty (30) days; provided, however, that if the breach, by its nature, cannot be cured within thirty (30) days, Developer shall not be in the breach hereunder if Developer commences the cure within the thirty (30) day period and diligently pursues the cure to completion. Failure to comply with such notice shall, in addition to any other relief to which the City may be entitled in equity or at law, render Developer liable to the City in any suit for enforcement for actual costs incurred by the City including, but not limited to, reasonable attorneys' fees, expert witness fees and the like.

- d. This Agreement may not be amended except in writing signed by the parties and recorded in the same manner as this Agreement. In the event the Developer desires to propose an amendment, an application shall be made to the City's Department of Community Development, which shall process the application in accordance with the procedures set forth in the Zoning Ordinance.
- e. Both parties understand and agree that if any part, term, or provision of this Agreement is held by a court of competent jurisdiction, and as a final enforceable judgment, to be illegal or in conflict with any law of the State of Michigan or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provisions held to be invalid.
- f. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Oakland, State of Michigan.
- g. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. A delay in enforcement of any provision of this Agreement shall not be construed as a waiver or estoppel of the City's rights to eventually enforce, or take action to enforce, the terms of this Agreement. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, all remedies afforded in this Agreement are in addition to every other remedy provided by law.

- h. The signers of this Agreement warrant and represent that they have the authority to sign this Agreement on behalf of their respective principals and the authority to bind each party to this Agreement according to its terms. Further, each of the parties represents that the execution of this Agreement has been duly authorized and is binding on such parties as and when provided herein.
- i. This Agreement and all of its covenants, restrictions, and conditions are made for the benefit of the property and the community and shall run with the land described herein as the Overall Land and bind the parties, their heirs, successors, and assigns. The parties acknowledge that the Overall Land is subject to changes in ownership and/or control at any time, but that heirs, successors, and assigns shall take their interest subject to the terms of this Agreement, and all references to the "Developer" in this Agreement shall also include all respective heirs, successors, and assigns of Developer, all future owners of any parcels or units created by the proposed land divisions or condominium(s). The City shall have the right to enforce the Agreement and its covenants, restrictions, and conditions against Developer or its heirs, successors, and assigns. Provided, however, that this Agreement shall not be binding on any party nor become effective until Developer acquires fee simple title to all of the Overall Land. If the Overall Land, or any portion of it, is not conveyed to Developer, this Agreement shall have no force or effect.

This Agreement shall be recorded in the Oakland County Register of Deeds contemporaneously with the Closing on the Anglin Property and the Eleven Mile property. .

All parties to this Agreement further agree that, notwithstanding anything in the Planned Rezoning Overlay (PRO) provisions of the City's Zoning Ordinance, Section 7.13, the PRO approval and this Agreement shall not expire or become void under Section 7.13.2.D.iii of the Ordinance, and the obligations of this Agreement shall remain in full force and effect, unless and until such time as it is amended or terminated by the City in accordance with the applicable procedures of the PRO provisions of the City's Zoning Ordinance. Such amendment or termination shall be evidenced by the recording of an amendment or termination of this Agreement with the Oakland County Register of Deeds. The parties agree and acknowledge that for purposes of the PRO provisions of the Zoning Ordinance, the Development shall be considered to have commenced upon bona fide development of the Overall Land. Because the City is the seller of its portion of the Overall Land, as well as the approving body under the PRO provisions of the Zoning Ordinance, the requirements and obligations of Developer and Ecco Tool set forth herein shall be considered to be in the nature of deed and/or use restrictions.

- j. Developer has negotiated with the City the terms of the PRO Plan, the PRO Conditions, and this Agreement, and such documentation represents the product of the joint efforts and mutual agreements of Developer and the City. Developer fully accepts and agrees to the final terms, conditions, requirements and obligations of the PRO Plan and PRO Agreement, and Developer shall not be permitted in the future to claim that the effect of the PRO Plan and PRO Agreement results in an unreasonable limitation upon uses of all or a portion of the Overall Land, or claim that enforcement of the PRO Plan and PRO Agreement causes an inverse condemnation, other condemnation or taking of all or any portion of the Overall Land. Developer and the City agree that this Agreement and its terms, conditions, and requirements are lawful and consistent with the intent and provisions of local ordinances, state and federal law, and the Constitutions of the State of Michigan and the United States of America. Developer has offered and agreed to proceed with the Undertakings, the PRO Conditions, and any other obligations as set forth in this Agreement in order to protect the public health, safety, and welfare and provide material advantages and development options for Developer, all of which Undertakings, PRO Conditions, and other obligations Developer and the City agree are necessary in order to ensure public health, safety, and welfare, to ensure compatibility with adjacent uses of land, to promote use of the Overall Land in a socially, environmentally, and economically desirable manner, and to achieve other reasonable and legitimate objectives of the City and Developer, as authorized under applicable City ordinances and the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*, as amended.

Developer further agrees and acknowledges that the terms, conditions, obligations, and requirements of this Agreement are clearly and substantially related to the burdens to be created by the development and use of the Overall Land under the PRO Plan, and are, without exception, clearly and substantially related to the City's legitimate interests in protecting the public health, safety and general welfare.

- k. Developer acknowledges that, at the time of the execution of this Agreement, Developer has not yet obtained final site plan or engineering approvals for the Overall Land. Master Developer acknowledges that the Planning Commission and City engineering staff/consultants may impose additional conditions other than those contained in this Agreement during site plan and engineering reviews and approvals as authorized by law; provided, however, that any such additional conditions shall not be inconsistent with the PRO Plan and this Agreement and shall not change or eliminate any development right authorized thereby. Such conditions shall be incorporated into and made a part of this Agreement.

- l. None of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between the Developer and the City.
- m. The Recitations contained in this Agreement and all exhibits attached to this Agreement and referred to herein shall for all purposes be deemed to be incorporated in this Agreement by this reference and made a part of this Agreement. Headings are descriptive only. The Exhibits attached hereto are as follows:
 - Exhibit A - Description & Depiction of the Anglin Parcel, the Eleven Mile Parcel and the ECCO Parcel
 - Exhibit B - Condominium Plan
 - Exhibit C – PRO Plan
 - Exhibit D – Phasing Plan for the Overall Land
- n. This Agreement is intended as the complete integration of all understandings between the parties related to the subject matter herein. No prior contemporaneous addition, deletion, or other amendment shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent notation, renewal, addition, deletion or other amendment shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties required herein, other than additional conditions which may be attached to site plan approvals as stated above.
- o. The parties intend that this Agreement shall create no third-party beneficiary interest except for an assignment pursuant to this Agreement. The parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent and expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.
- p. Where there is a question with regard to applicable regulations for a particular aspect of the development, construction and use of all or any portion of the Overall Land, or with regard to clarification, interpretation, or definition of terms or regulations, and there are no express provisions of the PRO Plan and this Agreement which apply, the City, in the reasonable exercise of its discretion, shall determine the regulations of the City's Zoning Ordinance, as such Ordinance may have been amended, or other City Ordinances that shall be applicable, provided that such determination is not inconsistent with the nature and intent of the PRO Plan and this Agreement and does not delay, change or eliminate any development rights authorized by the PRO Plan and this Agreement. In the event of a conflict or inconsistency between two or more provisions of the PRO Plan (including

notes thereto) and/or this Agreement, or between such documents and applicable City ordinances, the more restrictive provision, as determined in the reasonable discretion of the City, shall apply.

- q. The parties acknowledge and agree that they have had the opportunity to have the PRO Plan and this Agreement reviewed by legal counsel.
- r. This Agreement may be signed in counterparts.

{Signatures begin on following page}

DEVELOPER:
SAKURA NOVI LAND DEVELOPMENT, LLC

By: _____
Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this _____ day of _____, 2020, before me appeared
_____ of **SAKURA NOVI LAND
DEVELOPMENT, LLC**, a Michigan limited liability company, on behalf of the company.

Notary Public
_____ County
Acting in _____ County
My commission expires: _____

{Signatures continue on following page}

ECCO TOOL CO. INC.

By: _____
Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this _____ day of _____, 2020, before me appeared
_____ of **ECCO TOOL CO. INC.**, a Michigan
corporation, on behalf of the corporation.

Notary Public
_____ County
Acting in _____ County
My commission expires: _____

{Signatures continue on following page}

CITY OF NOVI

By: Robert J. Gatt
Its: Mayor

By: Cortney Hanson
Its: Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

On this _____ day of _____, 2020, before me appeared **Robert J. Gatt** and **Cortney Hanson**, who stated that they had signed this document of their own free will on behalf of the **City of Novi** in their respective official capacities, as stated above.

Notary Public
_____ County
Acting in _____ County
My commission expires: _____

Drafted by:

Elizabeth Kudla Saarela
Rosati, Schultz, Joppich & Amstbuechler, PC
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-5627

When recorded return to:

Cortney Hanson, Clerk

City of Novi
45175 Ten Mile Road
Novi, MI 48375

{Exhibits commence on following page}

Exhibit A

Description & Depiction of the Anglin Parcel, the Eleven Mile Parcel and the ECCO Parcel

Anglin Parcel - Legal Description

[To Be Inserted]

Eleven Mile Parcel - Legal Description

[To Be Inserted]

ECCO Parcel - Legal Description

[To Be Inserted]

[see attached proposed drawings depicting the subject parcels]

Exhibit B

Condominium Plan

[see attached proposed drawing]

Exhibit C

PRO Plan

[To Be Inserted]

Exhibit D

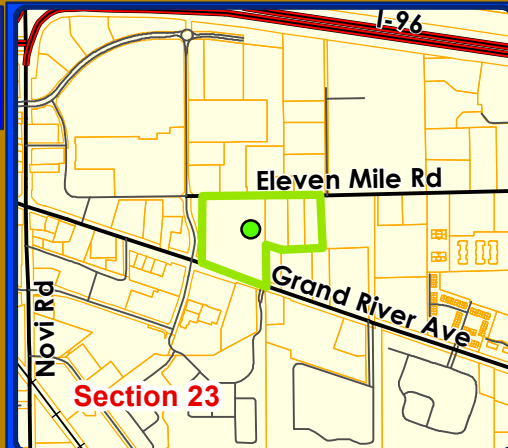
Phasing Plan for the Overall Land

[see attached proposed drawing]


MAPS
Location
Zoning
Future Land Use
Natural Features

SAKURA WAY: JZ19-31

LOCATION



LEGEND

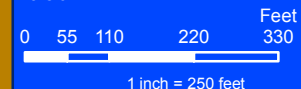
 Subject Property



City of Novi

Dept. of Community Development
City Hall / Civic Center
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org

Map Author: Lindsay Bell
Date: 7/22/19
Project: SAKURA WAY JZ 19-31
Version #: 1

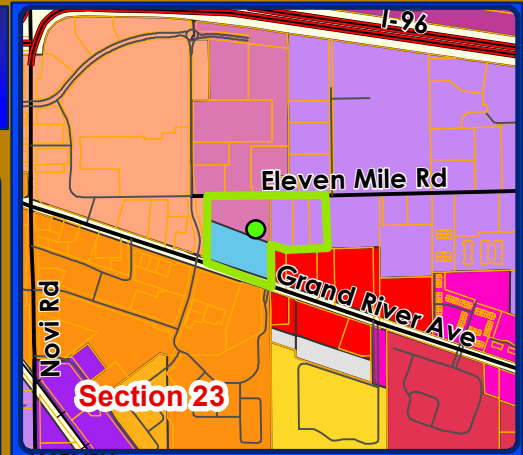
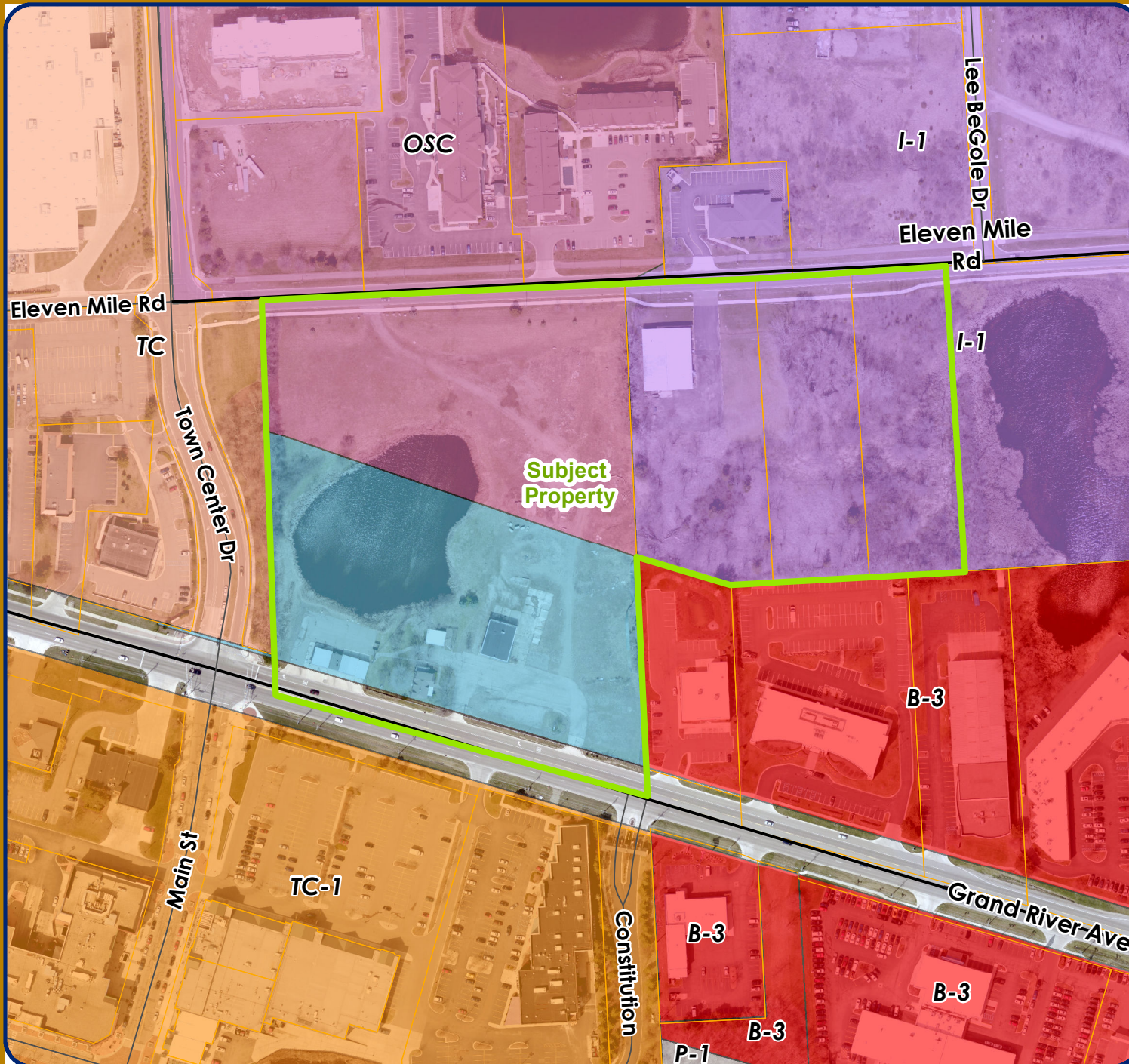


MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

SAKURA WAY: JZ19-31

ZONING



LEGEND


- RM-1: Low-Density Multiple Family
- RM-2: High-Density Multiple Family
- B-3: General Business District
- GE: Gateway East District
- I-1: Light Industrial District
- I-2: General Industrial District
- NCC: Non-Center Commercial District
- OS-1: Office Service District
- OSC: Office Service Commercial
- OST: Office Service Technology
- P-1: Vehicular Parking District
- TC: Town Center District
- TC-1: Town Center -1 District
- Subject Property


City of Novi
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Feet
 0 55 110 220 330

1 inch = 250 feet

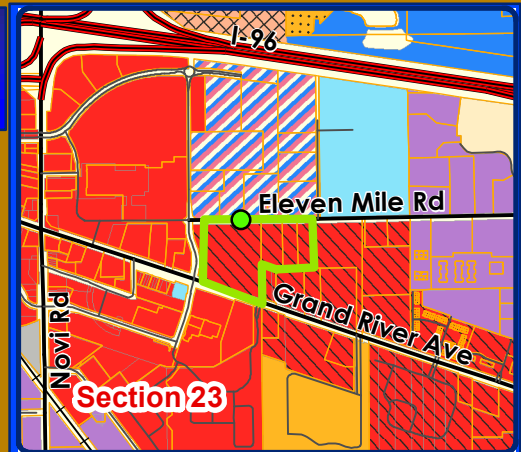
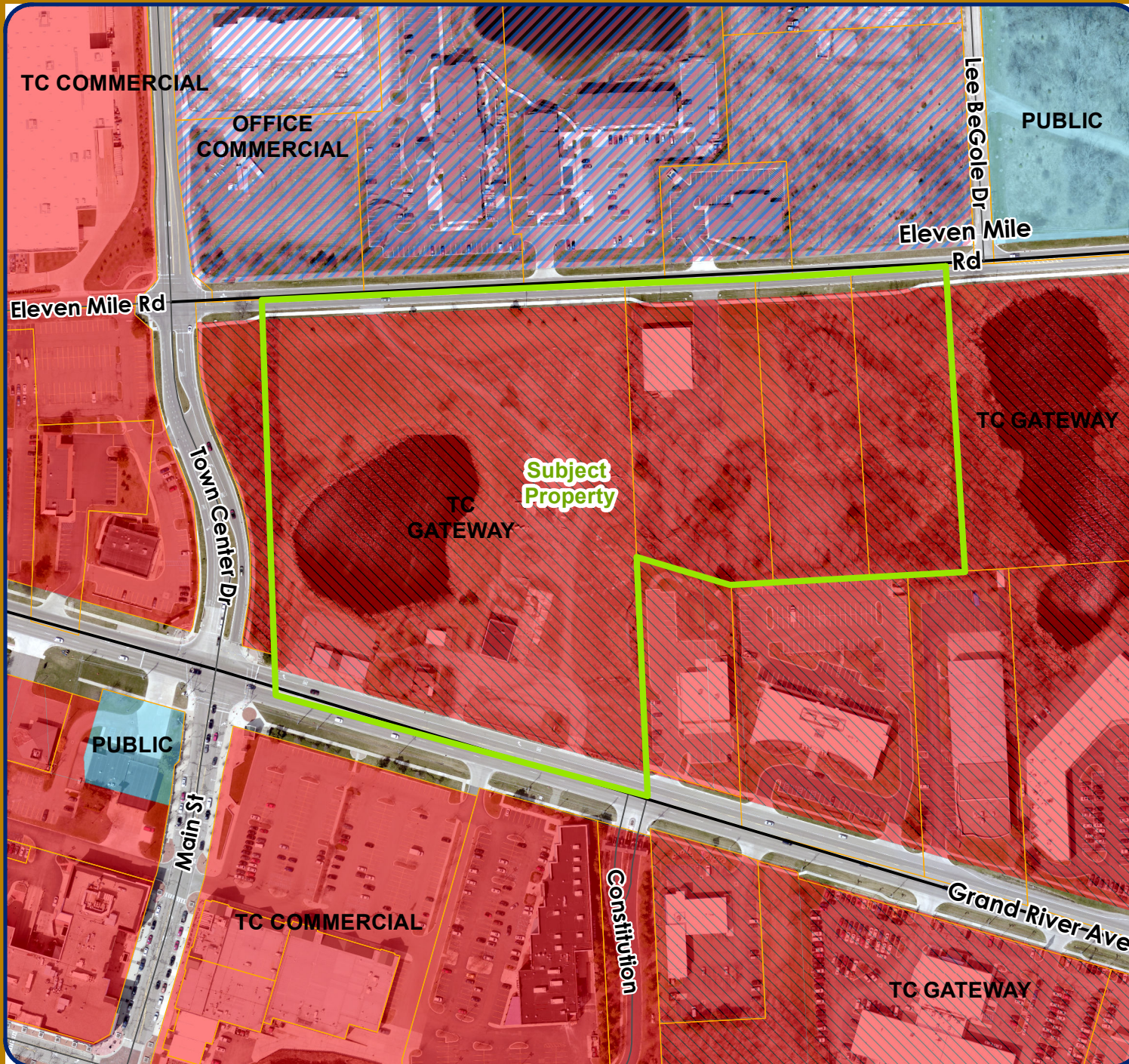


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SAKURA WAY: JZ19-31

FUTURE LAND USE



LEGEND

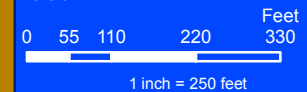
- Multiple Family
- PD1
- Office Research Development Technology
- Office Commercial
- Industrial Research Development Technology
- Regional Commercial
- TC Commercial
- TC Gateway
- Educational Facility
- Public
- Cemetery
- Subject Property



City of Novi

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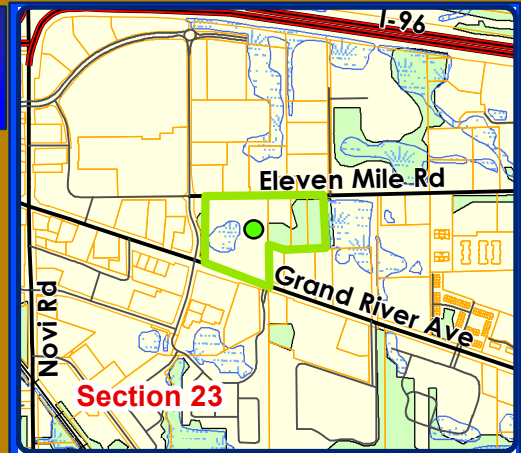


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SAKURA WAY: JZ19-31

NATURAL FEATURES



LEGEND

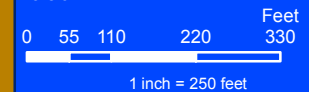
- WETLANDS
- WOODLANDS
- Subject Property



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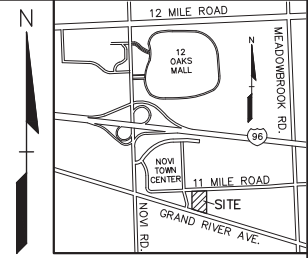
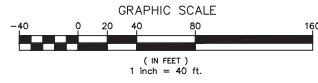
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MAP INTERPRETATION NOTICE

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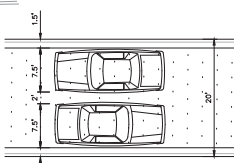
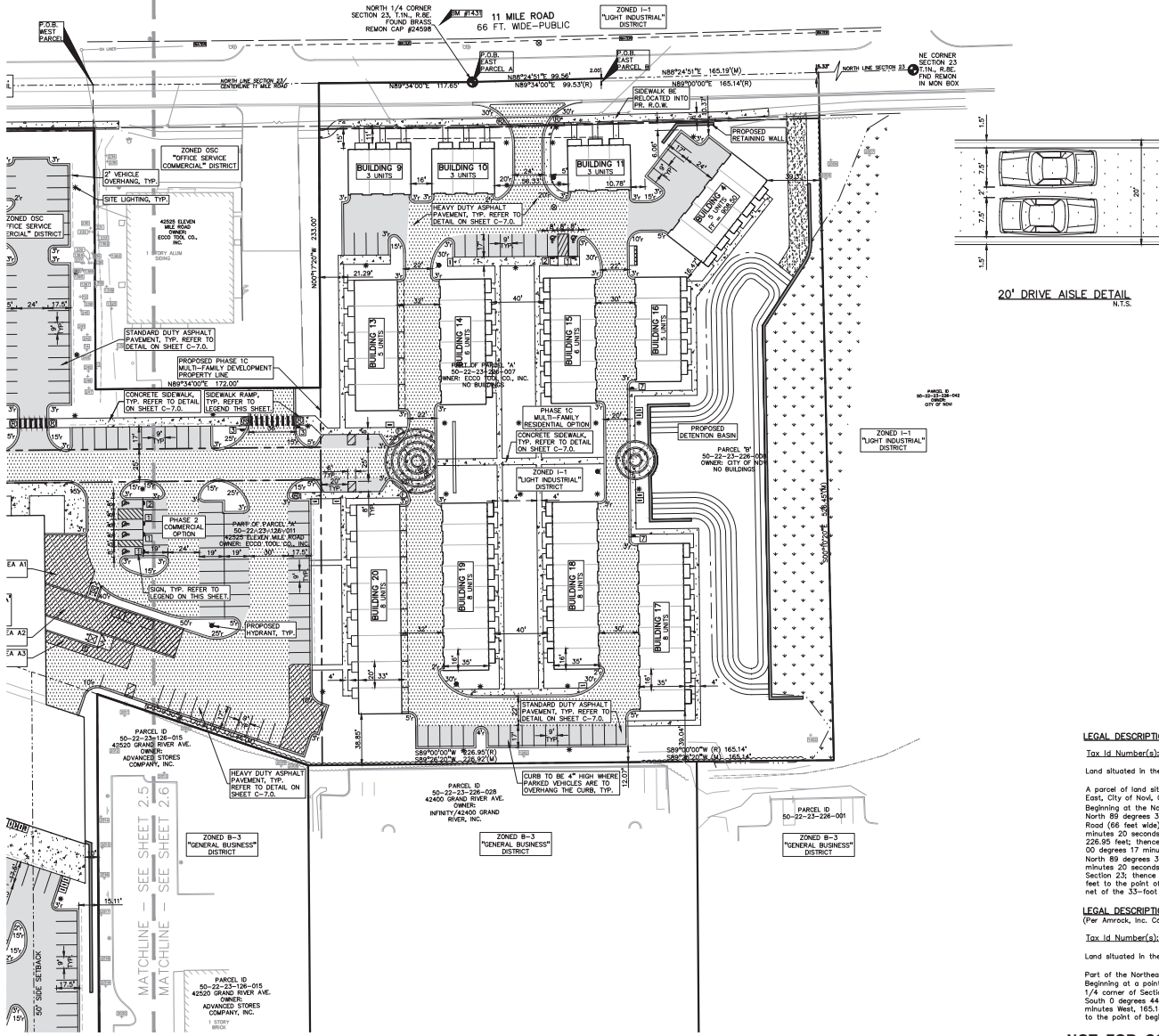
PRO CONCEPT PLAN
May 18, 2021



REVISIONS

NO.	DATE	DESCRIPTION
1	10/24/11	ISSUED FOR PERMIT
2	11/15/11	REVISIONS TO PERMIT
3	11/15/11	REVISIONS TO PERMIT
4	11/15/11	REVISIONS TO PERMIT
5	11/15/11	REVISIONS TO PERMIT
6	11/15/11	REVISIONS TO PERMIT
7	11/15/11	REVISIONS TO PERMIT
8	11/15/11	REVISIONS TO PERMIT
9	11/15/11	REVISIONS TO PERMIT
10	11/15/11	REVISIONS TO PERMIT
11	11/15/11	REVISIONS TO PERMIT
12	11/15/11	REVISIONS TO PERMIT
13	11/15/11	REVISIONS TO PERMIT
14	11/15/11	REVISIONS TO PERMIT
15	11/15/11	REVISIONS TO PERMIT
16	11/15/11	REVISIONS TO PERMIT
17	11/15/11	REVISIONS TO PERMIT
18	11/15/11	REVISIONS TO PERMIT
19	11/15/11	REVISIONS TO PERMIT
20	11/15/11	REVISIONS TO PERMIT

NOTE:
ALL WORK WITHIN THE 11 MILE ROAD RIGHT-OF-WAY IS UNDER THE JURISDICTION OF THE CITY OF NOVI AND REQUIRES A PERMIT.



LEGEND

● IRON FOUND	○ BRASS PLUG SET	□ CONC. CORNER FOUND
○ WOOD FOUND	○ MONUMENT FOUND	■ RECORDED
○ NAIL & COP SET	○ NAIL & COP SET	■ MEASURED
		■ CALCULATED

REFERENCE DRAWINGS

DATE MAP	CITY OF NOVI GIS MAP, DATED 12-12-10
DRAWING NUMBER	CITY OF NOVI GIS MAP, DATED 12-12-10
SCALE	CITY OF NOVI GIS MAP, DATED 12-12-10
DATE	CONTRACTOR'S REPORT MAP #P-08-23-2 DATED 10-11-10
DATE	P.A. DATED 10-11-10

HAVE NOT ALL RECEIVED FRANCHISE UTILITY MAPS AS OF DECEMBER 12, 2010

BENCHMARKS

BM#300
GEAR SPIKE IN A POWER POLE 25 FEET NORTH OF THE CENTERLINE OF 11 MILE ROAD AND 375± FEET EAST OF THE EAST CURB OF TOWNE CENTER DRIVE.
ELEV. 918.48

BM#301
GEAR SPIKE IN A POWER POLE 42 FEET SOUTH OF THE CENTERLINE OF GRAND RIVER 500± FEET EAST OF THE EAST CURB OF TOWNE CENTER DRIVE.
ELEV. 919.00

BM #431
"X" ON NORTH RIM OF SANITARY MANHOLE LOCATED 25 FEET NORTH BACK OF CURB OF 11 MILE ROAD, 25 FEET WEST OF SOUTH 1/4 POST SECTION 14, AND IN FRONT OF BUILDING #42500 11 MILE ROAD.
ELEV. 913.51

LEGAL DESCRIPTION (EAST PARCEL A - FUTURE SPLIT/COMBINATION)
Tax Id Number(s): 22-23-126-011, 22-23-226-007

Land situated in the City of Novi in the County of Oakland in the State of MI

A parcel of land situated in a part of the North 1/2 of Section 23, Town 01 North, Range 08 East, City of Novi, Oakland County, Michigan, being more particularly described as follows: Beginning at the North 1/4 corner of Section 23, Town 01 North, Range 08 East, thence North 89 degrees 34 minutes 02 seconds East 99.53 feet along the centerline of 11 Mile Road (66 feet wide) and the North line of said Section 23, thence South 00 degrees 10 minutes 20 seconds East 527.55 feet; thence South 89 degrees 34 minutes 02 seconds West 226.95 feet; thence North 71 degrees 19 minutes 30 seconds West 170.41 feet; thence North 00 degrees 17 minutes 20 seconds West 235.77 feet thence North 89 degrees 34 minutes 02 seconds East 172.00 feet; thence North 00 degrees 17 minutes 20 seconds West 233.00 feet to said centerline of 11 Mile Road and the North line of Section 23, thence along said North line North 89 degrees 34 minutes 02 seconds East 117.65 feet to the point of beginning. Containing 3.68± acres of land gross and 3.52± acres of land net of the 33-foot right-of-way.

LEGAL DESCRIPTION (EAST PARCEL B)
(Per Amrock, Inc. Commitment File No. 65113081, effective date October 24, 2018)
Tax Id Number(s): 22-23-226-008

Land situated in the City of Novi in the County of Oakland in the State of MI

Part of the Northeast 1/4 of Section 23, Town 1 North, Range 8 East, described as: Beginning at a point distant North 89 degrees 00 minutes East, 99.53 feet from the North 1/4 corner of Section 23, thence North 89 degrees 00 minutes East, 165.14 feet; thence South 0 degrees 44 minutes 20 seconds East, 527.55 feet; thence South 89 degrees 00 minutes West, 165.14 feet; thence North 0 degrees 44 minutes 20 seconds West, 527.55 feet to the point of beginning.

NOT FOR CONSTRUCTION



CAUTION!
This drawing is the property of the engineer and is not to be used for any other project without the written consent of the engineer. The engineer is not responsible for any errors or omissions in this drawing. The engineer is not responsible for any conditions or circumstances that may arise from the use of this drawing.

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SAKURA NOVI LAND DEVELOPMENT, LLC
500 COLLEGE AVE., SUITE 500
BIRMINGHAM, AL 35209
DIMENSION AND PAVING PLAN - EAST SAKURA NOVI - PRO CONCEPT PLAN
PART OF THE E.D. OF THE CITY OF NOVI, IN THE COUNTY OF OAKLAND, IN THE STATE OF MICHIGAN.
DATE: 11/15/11
SCALE: 1" = 40'

ORIGINAL ISSUE DATE: JUNE 27, 2019
PEA JOB NO. 2018-033
SCALE: 1" = 40'
DRAWING NUMBER: C-2.6

LEGAL DESCRIPTION
 (Per Warranty Deed recorded L50264, P.679
 Tax ID Number(s): 22-23-126-006

A parcel of land located in and being part of the East 1/2 of the Northwest 1/4 of Section 23, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, being more particularly described as follows:

Commencing at the North 1/4 corner of said Section 23, thence proceeding South 89 Degrees 34 Minutes 00 Seconds West 290.50 feet along the North line of said Section 23 and the centerline of Eleven Mile Road to the point of beginning, thence South 00 Degrees 28 Minutes 00 Seconds East 891.67 feet (recorded as South 00 Degree 17 Minutes 20 Seconds East 891.25 feet) to a point on the centerline of Grand River Avenue (105'-10"), thence North 71 Degrees 44 Minutes 00 Seconds West 652.02 feet (recorded as 620.70 feet) along said centerline of Grand River Avenue (North half 50 feet wide); thence North 68.62 feet (recorded as 68.62 feet) to a point on the North line of said Section 23, said point being located North 89 Degrees 34 Minutes 00 Seconds East 433.84 feet (recorded as 419.90 feet and assessed as 433.70 feet) from the 1/16 corner located at the Northwest corner of the East 1/2 of the Northwest 1/4 of said Section 23; thence continuing North 89 Degrees 34 Minute 00 Seconds East 612.44 feet (recorded as 613.40 feet) along said North line of Section 23 and centerline of Eleven Mile Road (South half 33 feet wide) to the point of beginning.

LEGAL DESCRIPTION (EAST PARCEL A - FUTURE SPLIT/COMBINATION)
 Tax ID Number(s): 22-23-126-011, 22-23-226-007

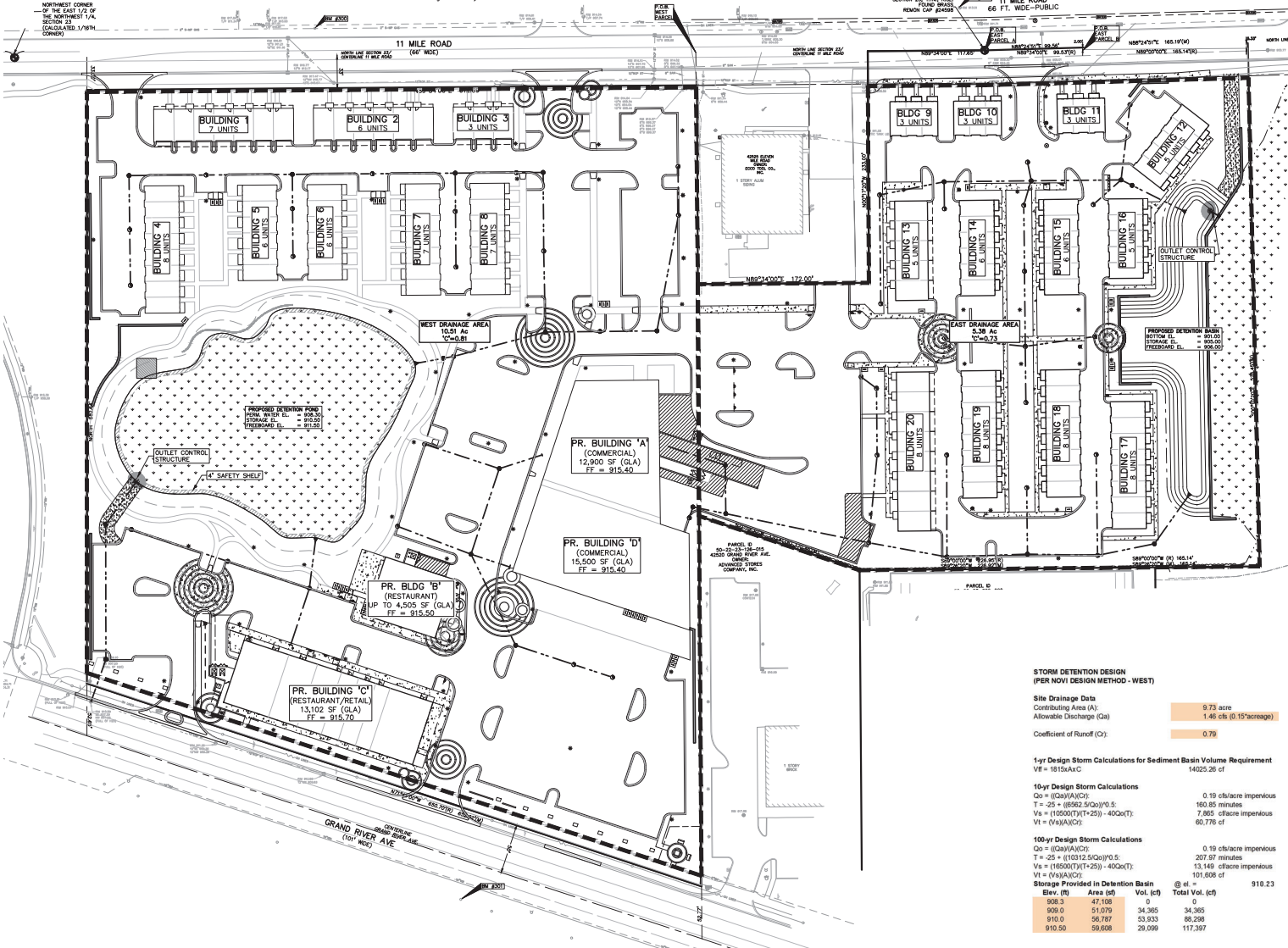
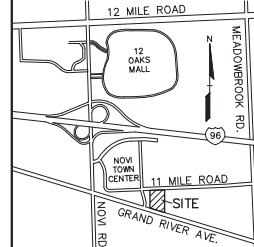
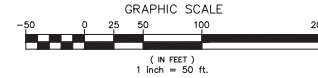
Land situated in the City of Novi in the County of Oakland in the State of MI

A parcel of land situated in a part of the North 1/2 of Section 23, Town 01 North, Range 08 East, City of Novi, Oakland County, Michigan, being more particularly described as follows:
 Beginning at the North 1/4 corner of Section 23, Town 01 North, Range 08 East, thence North 89 degrees 34 minutes 00 seconds East 99.53 feet along the centerline of 11 Mile Road (66 feet wide) and the North line of said Section 23; thence South 00 degree 10 minutes 20 seconds East 527.55 feet; thence South 89 degrees 34 minutes 00 seconds West 226.92 feet; thence North 71 degrees 19 minutes 20 seconds West 170.41 feet; thence North 00 degrees 17 minutes 20 seconds West 238.77 feet; thence North 89 degrees 34 minutes 00 seconds East 172.00 feet; thence North 00 degrees 17 minutes 20 seconds West 233.00 feet to said centerline of 11 Mile Road and the North line of Section 23; thence along said North line North 89 degrees 34 minutes 00 seconds East 117.65 feet to the point of beginning, containing 3.88± acres of land gross and 3.52± acres of land net of the 33-foot right-of-way.

LEGAL DESCRIPTION (EAST PARCEL B)
 (Per Amicus, Inc. Commitment File No. 65113081, effective date October 24, 2016)
 Tax ID Number(s): 22-23-226-008

Land situated in the City of Novi in the County of Oakland in the State of MI

Part of the Northeast 1/4 of Section 23, Town 1 North, Range 8 East, described as:
 Beginning at a point distant North 89 degrees 00 minutes East, 99.53 feet from the North 1/4 corner of Section 23, thence North 89 degrees 00 minutes East, 165.14 feet; thence South 0 degrees 44 minutes 20 seconds East, 527.55 feet; thence South 89 degrees 00 minutes West, 165.14 feet; thence North 0 degrees 44 minutes 20 seconds West, 527.55 feet to the point of beginning.



LEGEND

- BORN FOUND
- MONUMENT FOUND
- MONUMENT SET
- SEC. CORNER FOUND
- RECORDED
- CALCULATED

REFERENCE DRAWINGS

FLOODPLAIN

BENCHMARKS

STORM DETENTION DESIGN (PER NOVI DESIGN METHOD - WEST)

Site Drainage Data

Contributing Area (A)	9.73 acre
Allowable Discharge (Qa)	1.46 cfs (0.15"acreage)
Coefficient of Runoff (C)	0.79

1-yr Design Storm Calculations for Sediment Basin Volume Requirement
 $V = 1815AxC$
 14025.28 cf

10-yr Design Storm Calculations

$Q_p = (0.29A)^{0.78}$	0.19 cfs/acre impervious
$T = -25 + (8592.5/Q_p)^{0.5}$	190.85 minutes
$V_s = (16500(T)^{1.25}) - 400(XT)$	7,965 cfs/acre impervious
$V_t = (V_s)(A)(C)$	60,776 cf

100-yr Design Storm Calculations

$Q_p = (0.29A)^{0.78}$	0.19 cfs/acre impervious
$T = -25 + (10312.5/Q_p)^{0.5}$	207.97 minutes
$V_s = (16500(T)^{1.25}) - 400(XT)$	13,149 cfs/acre impervious
$V_t = (V_s)(A)(C)$	101,568 cf

Storage Provided in Detention Basin

Elev. (ft)	Area (sq ft)	Vol. (cf)	Total Vol. (cf)
908.3	47,108	0	0
909.0	51,079	34,385	34,385
910.0	56,787	53,933	88,298
910.50	58,608	29,069	117,397

STORM DETENTION DESIGN (PER NOVI DESIGN METHOD - EAST)

Site Drainage Data

Contributing Area (A)	5.38 acre
Allowable Discharge (Qa)	0.81 cfs (0.15"acreage)
Coefficient of Runoff (C)	0.73

1-yr Design Storm Calculations for Sediment Basin Volume Requirement
 $V = 1815AxC$
 7090.51 cf

10-yr Design Storm Calculations

$Q_p = (0.29A)^{0.78}$	0.21 cfs/acre impervious
$T = -25 + (8592.5/Q_p)^{0.5}$	151.78 minutes
$V_s = (16500(T)^{1.25}) - 400(XT)$	7,740 cfs/acre impervious
$V_t = (V_s)(A)(C)$	30,237 cf

100-yr Design Storm Calculations

$Q_p = (0.29A)^{0.78}$	0.21 cfs/acre impervious
$T = -25 + (10312.5/Q_p)^{0.5}$	196.00 minutes
$V_s = (16500(T)^{1.25}) - 400(XT)$	12,987 cfs/acre impervious
$V_t = (V_s)(A)(C)$	50,735 cf

Storage Provided in Detention Basin

Elev. (ft)	Area (sq ft)	Vol. (cf)	Total Vol. (cf)
901.0	7,903	0	0
902.0	10,633	9,266	9,266
903.0	13,414	12,024	21,290
904.0	15,119	14,267	35,558
905.0	16,778	15,845	51,503

REVISIONS

NO.	DATE	DESCRIPTION
1	06/27/2019	ISSUED FOR PERMITS
2	06/27/2019	ISSUED FOR PERMITS
3	06/27/2019	ISSUED FOR PERMITS
4	06/27/2019	ISSUED FOR PERMITS
5	06/27/2019	ISSUED FOR PERMITS
6	06/27/2019	ISSUED FOR PERMITS
7	06/27/2019	ISSUED FOR PERMITS
8	06/27/2019	ISSUED FOR PERMITS
9	06/27/2019	ISSUED FOR PERMITS
10	06/27/2019	ISSUED FOR PERMITS
11	06/27/2019	ISSUED FOR PERMITS
12	06/27/2019	ISSUED FOR PERMITS
13	06/27/2019	ISSUED FOR PERMITS
14	06/27/2019	ISSUED FOR PERMITS
15	06/27/2019	ISSUED FOR PERMITS
16	06/27/2019	ISSUED FOR PERMITS
17	06/27/2019	ISSUED FOR PERMITS
18	06/27/2019	ISSUED FOR PERMITS
19	06/27/2019	ISSUED FOR PERMITS
20	06/27/2019	ISSUED FOR PERMITS

STATE OF MICHIGAN
PROFESSIONAL ENGINEER
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SAKURA NOVI LAND DEVELOPMENT, LLC
 300 COLLEGE AVENUE, SUITE 200
 BIRMINGHAM, AL 35203
STORM WATER MAINTENANCE PLAN
SAKURA NOVI - PRO CONCEPT PLAN
 PART OF THE L.D. OF THE NW 1/4 OF SECTION 23, T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN
 DATE: 06/27/2019
 DRAWN BY: J. P. M.
 CHECKED BY: J. P. M.
 PROJECT NO: 2019-003

ORIGINAL ISSUE DATE:
 JUNE 27, 2019

PEA JOB NO. 2018-033

SCALE: 1" = 50'

DRAWING NUMBER:

C-6.0

NOT FOR CONSTRUCTION

